

## SECURITY & INTELLIGENCE

### New security appointments

At the beginning of October the government announced the appointment of three new members of the Security Commission: Sir John Bletloch, KCB, Lord Lieutenant, Sir Derek Boorman, KCB and Sir Christopher Curwen, KCMG. The Security Commission was established in 1964 to investigate breaches of security and unauthorised leaks of information and to recommend any changes in procedure. There are seven members of the Security Commission from which three or four are usually chosen to form a panel to investigate a particular breach of security.

Sir John Bletloch retired as Permanent Under Secretary of State at the Northern Ireland Office in 1990. Sir Derek Boorman was Chief of Intelligence at the Ministry of Defence 1985-8. Sir Christopher Curwen is listed as having 'recently retired as a Deputy Secretary in the Cabinet Office'. In fact Sir Christopher was the Security and Intelligence Co-ordinator in the Cabinet Office. His successor in this post is Gerald Warner, a former Foreign Office official and member of the Police Complaints Authority.

Whitehall does not officially acknowledge the name of the Security and Intelligence Co-ordinator or identify the names of the heads of MI5 or MI6. The Director General of MI5 is Patrick Walker and the Chief of MI6 (the overseas intelligence agency) is Sir Colin McColl.

*Downing Street* press release 1.10.91; *Guardian*, 2.10.91.

### Fifth man saga put to rest

A former KGB colonel, Yuri Modin, has confirmed that the 'Fifth Man' recruited by the Soviets in the 1930s was John Cairncross. The others were Kim Philby, Guy Burgess, Donald Maclean and Sir Anthony Blunt. This confirmation ends years of speculation that the 'Fifth man' was Sir Roger Hollis, the head of MI5 between 1956 and 1965.

*Guardian*, 23.9.91; *Sunday Times*, 22.9.91.

### Dutch internal security budget

In September, the Dutch Ministry of the Interior's budget plans for 1992 were presented. The budget gives some statistics on the Dutch security service Binnenlandse Veiligheidsdienst (BVD). The BVD budget (million guilders; £1=3.25 guilders): 57,962 (1990), 59,134 (1991), 61,162 (1992), 59,022 (1993). This is broken down by personnel, materials and secret allocations. The BVD computer budget is 3,190 (1990), 3,750 (1991), 4,750 (1992), 5,000 (1993) and 5,000 (1994). This compares with the costs for the police criminal intelligence computer (Herkenningdienst) for 1992 estimated at 1.7 million guilders for development and 9.3 million for running costs. This computer stores information on an estimated

600,000 people.

The BVD intends to intensify the cooperation with its foreign counterparts. To this end, a permanent liaison officer will be stationed in Washington. Three more officers will continuously be travelling through Europe to maintain permanent contacts with other security services.

The planned Dutch contributions to the Schengen Information System for development and running costs is (in million guilders): 5,214 (1992), 12,500 (1993), 16,300 (1994), and 16,900 (1995).

### US Oversight Bill finally passed

The Intelligence Oversight Act has finally become law in the USA four years after it was introduced. *First Principles* comments: 'This law is the first and probably the last reform legislation to come out of the Iran-Contra affair. While it represents a modest reform at best, it does serve to strengthen the oversight process without enhancing presidential power beyond what previously existed in law and practice'. The Act which covers covert action authorised by the President contains the following new general definition of 'covert action':

an activity or activities of the United States Government designed to influence political, economic, or military conditions abroad, where it is intended that the role of the United States Government will not be apparent or acknowledged publicly... (Sec. 503(e)).

*First Principles*, September/October 1991.

### Secret Services and Political Police in Modern Society

A conference on political police and covert state activity is being held at Humboldt University (former East) Berlin on Jan. 11 and 12, 1992. It is being organized by an independent society of historians, the contact is Dr Stefan Wolle, Neue Str. 1, O-1275 Eggersdorf, Germany, tel: (0037373) resp. (025) 48306. Besides historical items such as 19th century political policing, the Gestapo, anti-fascist secret service activities 1938-1945, political justice in the FRG, and the Ochrana, it is also planned to have speakers on the KGB, Mossad, the French secret service, the British SIS, and a debate on German secret services.

### Security and intelligence - new material

**Dangerous Liaison: The Inside Story of the U.S.-Israeli Covert Relationship** by Andrew Cockburn and Leslie Cockburn. [Harper Collins: US]; 7/91; 416 pages; ISBN: 0-06-016444-1; Index; \$25.00 (hb). A tale of the cooperation between the Pentagon, CIA, and Israel's Mossad and Shin Bet from post-WWII contacts with James Angleton to the present crisis in the Gulf where, the authors

claim, '... arms dealers and spymasters make connections that determine the foreign policy of governments and the course of world history.' The Cockburns describe Israeli arms deals with, and anti-terrorist training, of Medellin Cartel commandos in Colombia, Contras in Honduras, and military squads in Guatemala. They also discuss a once 'secret arrangement' by which Israelis gathered intelligence for the CIA in Third World countries.

**Break-ins, Death Threats, and the FBI: The Covert War Against the Central America Movement** by Ross Gelbspan. [South End Press: US]; 3/91; 302 pages; ISBN: 0-89608-412-4 PB, -413-2 HB; \$14.00 PB, \$30.00 (hb). Gelbspan focuses on the reports of FBI employee Frank Varelli who helped infiltrate CISPEs, the organisation which opposed President Reagan's policies in Central America. It also argues that the FBI has close ties with right wing groups like the John Birch Society, the Moonies, and death squad supporters in El Salvador. 'Gelbspan demonstrates that the more than two hundred verified instances of break-ins, burglaries, death threats, harassment, and arson cannot be viewed, as many preferred, as a series of scattered horror stories; but as a unified plot to eliminate critics and opponents of Reagan's Central America initiatives...' - from the introduction by Frank J Donner. Gelbspan is a journalist who writes for the Washington Post, Village Voice, and other newspapers.

**Political Corruption: Scope and Resources - An Annotated Bibliography** by Elaine R. Johansen. [Garland: US]; 1990; 241 pages; ISBN: 0-8240-3529-1; \$35.00 (hb). More than 800 citations from over 20 years of research, 700 with full annotations - occasionally running more than one page each. Entries cover political corruption, legal writings, theoretical frameworks, appellate cases, corruption in elections, business-government corruption, public opinion, federal statutes, hearings and government documents, state/municipal corruption, detection, control, and correction. Mainly in U.S., but some foreign cases are cited.

**Employment, Justice and Detente: the reform of vetting**, Ian Leigh and Laurence Lustgarten. *Modern Law Review*, Vol 54, no 5, September 1991, pp613-642. An important review of recent developments in the law and practice of political and security vetting of employees in Britain, including the application of the European Convention of Human Rights in this field.

**Operation Thunderstorm in South Africa**, *Top Secret*, Summer 1991, pp25-30. Article deals with Inkathagate.

**Tap Tap... Who's there?** Ken Hyder, *Police Review*, 2.8.91, pp1572-3.

## IMMIGRATION

### European onslaught on refugees

Following widespread protests against the proposals to withdraw legal advice and assistance ('Green Form' legal aid) from all immigrants, as part of the package announced in July (see *Statewatch* no 4), the Home Secretary appeared to be backing down by the end of September. Kenneth Baker told the Bar Conference in London that green form eligibility would not be withdrawn until other arrangements were made - a reference to the fact that both the Home Office sponsored UKIAS and the National

Association of Citizens' Advice Bureaux (NACAB) had refused to take on the role of monopoly advisor. Early in October, the Lord Chancellor agreed to meet immigration lawyers to discuss the proposals.

But the government is still determined to crack down on refugees. A memo leaked in late September revealed proposals from ministers Michael Heseltine and David Mellor to a secret ministerial meeting on asylum that Britain withdraw altogether from the 1951 Geneva Convention, from which international obligations towards refugees are derived, and which 103 countries have signed. Heseltine's justification for this dramatic suggestion was the 'pressure on housing' created by refugees. The Foreign Office proposal, as an alternative 'solution', was to send all asylum-seekers back to 'international camps' or 'safe havens' in their countries of origin, in which claims could be assessed. And at the Tory Party conference in October, Baker, Douglas Hurd and John Major all spoke of refugees in the language of 'tidal waves' and 'immigration catastrophes' last heard of Enoch Powell in the late 60s. They were ably assisted by scaremongering stories in the Tory press, notably the *Daily Mail* and the *Sun*.

Another aspect of the anti-refugee campaign by Ministers has been the withdrawal from the Code of Guidance on Homelessness of any mention of refugees. In the draft version, local authorities were told to 'consider the psychological and physical effects of trauma suffered by refugees'. The Association of London Authorities condemned Housing Minister George Young for deleting this reference at the last moment for political motives. In some London boroughs such as Westminster, refugees make up 30% of homeless people.

In Germany, the response of the main parties to the neo-nazi pogroms on asylum-seekers was to call for a crackdown, not on racist violence, but on refugees. Following an election in Bremen in which immigration and asylum dominated, which resulted in the Right taking control of the federal state previously noted for its liberal asylum policies, the mainstream parties are playing the race card at national level. Although there is still disagreement about diluting or abolishing the constitutional right to asylum, the main parties agreed on a number of immediate measures. These include sending back all asylum-seekers who could have claimed asylum in a neighbouring country; giving police greater powers to check the identity of asylum-seekers; and moving asylum-seekers from hotels and flats to 'collection camps' or 'concentrated accommodation', where judges would be sent to decide applications on the spot, allowing those refused asylum to be deported within six weeks of entry. Leaving the camp would be grounds for deportation. A number of ex-Army barracks are to be pressed into service for this purpose. The parties also want a list of 'non-persecuting' countries agreed from which no one will be able to claim asylum, and the government will negotiate reciprocal expulsion arrangements with Poland and Czechoslovakia which, it is said, could cut the number of asylum-seekers by 40%. Germany's asylum claimants run at around 200,000 a year, of whom about half come from Eastern Europe.

In October the French government announced harsher penalties for employers of unauthorised workers, and the withdrawal of family allowances from those without legal rights of residence. The government also intends to introduce stricter checks on documents and speedy processing of asylum claims by posting officers of the body which decides on asylum applications in the international zone of airports, and preventing asylum-seekers from working while their claims are processed. In addition the government intends to expand its voluntary repatriation programme, to ensure that deportation orders are executed, and to introduce fines on airlines carrying passengers without correct documents, in order to

bring it into line with countries such as Britain, Germany, Belgium and Italy. As a compensatory measure, rejected asylum-seekers who had been waiting three years for their claims to be decided are eligible for exceptional leave to stay, but the concession has been drawn too tightly to benefit more than a handful.

Sweden's new four-party coalition government, led by the Conservatives, is expected to announce a similar tightening up of measures affecting refugees. The New Democratic Party, which gained 25 seats, ran its election campaign on slogans calling for the deportation of refugees committing 'serious crimes'. Its leader agreed that 'at the moment we're creating racism'.

In this context, the European Commission's call in October to member states to take action against the 'flood of immigrants and refugees' seemed superfluous. The EC called for speedy procedures to deal with 'obviously unfounded' requests, which its member states are already falling over themselves to do. The Commission went on to demand harmonisation of procedures and criteria throughout the Community; as long as governments have different criteria and procedures for asylum, asylum-seekers confront a lottery, in which their fate is decided by the country agreeing to look at their application. The fear, however, is that in the current climate, harmonisation will lead to uniformly harsh criteria throughout the Community.

Back in Britain, the Police Federation responded to the recent flurry of anti-refugee activity by demanding a single European police data base as soon as possible, suggesting that many refugees are criminals. Its chairman, Alan Eastwood, said, 'Britain was right to resist the abolition of frontier checks ... the citizens of very poor Eastern countries are more interested in coming to the West, as economic refugees from poverty and hunger, than in staying to rebuild their own economies. When upheavals occur in another country, the authorities there are quite willing to see their criminal elements departing for other countries.'

*CARF* No 4, Sep-Oct 1991, p3; *Independent* 20.9.91, 28.9.91, 10, 11.10.91; *Sunday Independent* 29.9.91; *Daily Mail* 9, 10.10.91; *Sun* 9, 10.10.91. *Voice* 27.8.91.

### Immigration - new material

Two new publications were launched by *Refugee Forum* on 23 October. The first, *The Walls of the Fortress*, describes the texts and agreements (Schengen, TREVI, the Dublin Convention etc) making up the 'walls of paper' around Europe, designed to keep out immigrants, migrants and refugees, and discussed the implications for those communities and for settled Black communities in Europe. The text of the relevant documents is set out in an Appendix.

The second booklet, *Communities of Resistance First Launch Report*, is a report of the first Communities of Resistance conference held in Hackney in November 1989, and an account of the development of the Communities of Resistance Network since then. The Forum has also re-issued the *Communities of Resistance 1992 Information Pack*, an information pack describing the effects of 1992 in all areas of life including work, social security, health, housing, voting, policing, immigration controls, and fascist groups. It also includes the Migrant and Refugee European Manifesto. The publications offer a revealing insight into the developments at the European level of measures to ensure that 'refugees and other undesirables' are kept out of Europe, and what that actually means on the ground to those affected by them.

*The Walls of the Fortress*: £2.50

*Communities of Resistance First Launch Report*: £2.00

*Communities of Resistance 1992 Information Pack*: £6.00.

All available from: Refugee Forum, 54 Tavistock Place, London WC1. Add 50p per booklet for postage and packing.

**Refugees: countdown to zero**, Frances Webber, *Race and Class*, Vol 33, no 2, 1991, pp80-85.

**Immigration - Iraqi nationals**, Dave Marrington. *New Community*, Vol 17, no 4, 1991, pp633-644.

## LAW

### 28 day remands

The Government has laid draft Orders before Parliament to give powers, under the Criminal Justice Act 1988, to all courts in England and Wales to remand defendants in custody for up to 28 days at a time.

Traditionally, remands in custody from Magistrates Courts have been restricted to eight days, providing the safeguard that the authorities were required to physically produce a defendant in court at weekly intervals. The position was first eroded in the Criminal Justice Act 1982, which allowed that, so long as a defendant was legally represented and positively waived his right to a hearing they need not appear in court in person for up to 28 days.

The new Orders will now allow magistrates to impose full 28 day remands in custody on defendants, against their will and regardless of whether they are legally represented, so long as they are over 17 years of age.

The move follows an experiment with 28 day remands in Croydon, Highbury, Nottingham and Manchester, which the Home Office claims showed that the system did not result in any significant increase in the average time spent in custody. However, this view is disputed by the Chairman of the Prison Reform Trust. In a letter of 24 October 1991 in *The Independent*, he states that, when the system of 28 days remands was first proposed in 1989, 'concern was expressed that this might lead to an even larger prison remand population. The experiment that has now taken place confirms that this risk is serious. In the courts concerned, average periods of remand did frequently increase.'

The Government's motives in seeking to introduce 28 day remands nationally are administrative and financial, in that it would save the expense of prison and/or police officers having to transport remand prisoners back and forth to court every week. But the move also comes at a time of growing crisis over the remand prison population, with large numbers being held in totally unsatisfactory conditions in police cells because of a lack of prison places. This has led to recent public protests by Chief Constables.

Weekly remand appearances, even when they do not involve any substantial hearing of the case, are also vital at a time of rising concern over deaths in custody, in that they provide an opportunity for a public check on a defendant's physical and mental state. This is particularly important for those remanded in custody for psychiatric reports (often without even being convicted of a criminal offence), who because of the complete inadequacy of the Prison Medical Service are frequently left for weeks without seeing a doctor, in a state of increasing anxiety and risk of self-harm.

*Remands in Custody for up to 28 Days: The Experiments*, Home Office Research and Planning Unit Paper No. 62, by Paul F. Henderson and Patricia M. Morgan, Copies available from the Home Office on 071-273-4600. *Home Office Press release*, 12.7.91.

## Ethnic monitoring of judicial appointments

The Lord Chancellor, Lord MacKay of Clashfern, sensitive to charges of racism in the legal profession, announced that ethnic monitoring of judicial appointments would begin on 1 October 1991, and has appointed the chair of the Bar Race Relations Committee to work out ways of recruiting more black judges and QCs. At present there is only one black judge. Then on 12 October 1991 the Bar Council agreed proposals for an ethnic quota for all barristers' chambers. This was set at 6% (the equivalent of one barrister in an average sized chambers) and 12% pupil barristers.

The measure was not uniformly welcomed by black barristers. One, Sally Barber, said she wanted an organic, not an imposed solution, to racism at the Bar. 'I don't want to be a victim of positive discrimination', she said. But the Society of Black Lawyers threatened a boycott of the Bar Council if the measure did not get through.

*Times* 8.10.91; *Guardian* 13.10.91.

## Inquest Lawyers Group

On 25 September 1991 the Inquest Lawyers' Group was launched at a public meeting attended by over 100 lawyers, families of those who have died in custody, and prison service officials. There were 49 deaths of men and boys by suicide in prisons in England and Wales in 1990. Lawyers and a bereaved parent, Mr Hills, spoke of the inhumanities and injustices of the present coroners' court system for finding out the truth behind a death. Mr Hills said that his son's suicide note was not disclosed to him in full until it was read out at the inquest. Common problems which the group resolved to tackle were the lack of a right to advance disclosure (or any disclosure) of evidence, the lack of legal aid for bereaved families, and the restrictions on verdicts which the coroner could accept.

*Inquest Lawyers Group*, 2 Garden Court, Temple, London EC4Y 9BL.

## Law - new material

**The electronic monitoring of offenders in England and Wales: recent developments and future proposals**, Mike Nellis. *British Journal of Criminology*, Vol 31, no 2, Spring 1991, pp165-185.

**Disclosure of journalists' sources, civil disobedience and the rule of law**, T R S Allan. *Cambridge Law Review* Vol 50, no 1, March 1991, pp131-162.

**System abuse of children: the Orkney case**, J Cousin et al. *Probation Journal*, September 1991, pp121-126. The article examines the action taken by the Orkney Social Work Department and discusses this in relation to social work beliefs and power, and the rights of the abused and the abusers.

**Pindown: an infringements of rights**. *Law Society's Gazette*, no 26, 10.7.91. Looks at the report on 'pindown' in Staffordshire.

**Broadcasting and terrorism in the House of Lords**, Brian Thompson. *Public Law*, Autumn 1991, pp347-353.

**The production of guilt in the juvenile justice system: the pressures to 'plead'**, Joy Wundersitz, Ngaire Naffine and Fay Gale, *Howard Journal*, Vol 30, no 3, 1991, pp192-205.

## CIVIL LIBERTIES

### A People's Charter

'Liberty' have published a People's Charter setting out how a Bill of Rights would remedy human rights abuses. The first part of the consultative document describes the context of the debate and the second part gives the details of a Bill of Rights.

*NCCCL*, 21 Tabard Street, London SE1 4LA, £7.99, pp118.

### Malta to adopt freedom of information

Malta is likely to become the fourth Commonwealth country to adopt freedom of information legislation. The others are Australia, Canada and New Zealand.

Malta, a British dependency until 1964, has an Official Secrets Ordinance passed in 1923 which is almost identical to the old Section 2 of the UK Official Secrets Act 1911. In the past 78 years there have been no prosecution in Malta for leaking official information.

*Secrets*, (Campaign for Freedom of Information), July 1991.

### Jury vetting

The numbers of criminal records checks on the police national computer carried out to vet jurors were:

1988 1,152

1989 5,602

1990 4,146

*Hansard*, written answer, 11.6.91.

### 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.

**The use of bailiffs**, Best Practice Advisory Group, Home Office, 1991, 20pp.

**The Social Charter and its action programme**, Mark Carley (ed), EIRR Report No 6, Industrial Relations Service, 1991, 98pp.

**Double sentence**, Committee for the Transfer of Irish Prisoners 1991, 24pp. Sets out the case for Irish political prisoners to be given the right to be transferred to prisons near their homes in the north of Ireland.

**Presenting your case to Europe**, Peter Danton de Rouffignac, Mercury, 1991, 245pp.

**The right to silence**, Susan Easton. Avebury, 1991, 188pp, £29.50 (hb).

**Press freedom in Britain**, David Flintham, Nicholas Herbert, The Newspaper Society, June 1991, 34pp.

**Law, liberty and Australian democracy**, Beth Gaze, Melinda

Jones. Law Book Company, Australia, 1990, 505pp, \$69 (pb).

**Regulating the media**, Thomas Gibbons. Modern Legal Studies, Sweet and Maxwell, 1991, 189pp, 27.50 (hb).

**Police misconduct: legal remedies**, John Harrison and Stephen Cragg, Legal Action Group, 1991, 294pp, £19 (pb).

**The Bill of Rights: original meaning and current understanding**, Hickok, Eugene W. University Press of Virginia, 1991, 487pp, \$31.95 (hb).

**A scrutiny of the national collection of criminal records**, Home Office, April 1991.

**Encyclopedia of human rights**, Edward Lawson (ed). Taylor and Francis, 1991, 1907pp, £142.

**Police detention: A practical guide to advising the suspect**, Chris Lethem. Waterlow, 1991, 173pp.

**Citizens' Europe: Policies for the political and institutional reform of the European Community** Federal Green Paper No 20, Liberal Democrats, 1991, 32pp, £4. **Justice and security in the Community: Liberal Democrat policies on crime, policing and the criminal justice system**, Federal Green Paper No 22, Liberal Democrats, 1991, 32pp, £4 (pb).

**Put our world to rights: towards a commonwealth human rights policy**, Flora MacDonald (chair). Commonwealth Human Rights Initiative, 1991, 232pp, £10 (pb).

**European Community law and human rights: casebook**, Robert MacLean (ed). HLT Publications, 1991, 2nd edition, 419pp, £18.95 (pb).

**The case for the prosecution**, Mike McConville, Andrew Sanders, Roger Leng, Routledge, 1991, 227pp. Covers the Crown Prosecution Service, criminal justice, the Police and Criminal Evidence Act, interrogation, miscarriages of justice and police. £35 (hb).

**Schengen: internationalization of central chapters of the law on aliens, refugees, privacy, security and the police**, H Meijers et al. Kluwer Law and Taxation, 1991, 202pp.

**Transborder flow of personal data within the EC**, A C M Nugter. Kluwer Law and Taxation, 1990, 430pp, Dfl.150.

**Towards the United States of Europe: Studies in the making of the European Constitution**, Patrick Ransome (ed). Lothian Foundation, 1991, 328pp, \$25.

## EUROPE

### Germany: new law on surveillance and organised crime

The decision of the federal constitutional court of the FRG in 1983 that declared the census law unconstitutional ended a long judicial debate on the legality of intelligence gathering and data storage by police and government authorities. The court decided that the general freedoms of the individual included a right of 'informational self determination'. This meant that like any other

form of intervention into the private sphere of the individual, data collection and storage required a legal basis. This decision, which in 1983 was celebrated by civil libertarians as a victory, has become the central motivation for legalizing the police and intelligence agencies practices of using information technology and covert action.

From 1984 on the FRG saw a general wave of laws and legal proposals in the security sector. These fell into four general categories: 1) the renovation of general 'data protection laws'; 2) laws regarding the-intelligence agencies - the domestic 'verfassungsschutz' (constitutional guard); the military; and foreign intelligence. The latter categories were not regulated until a law was finally passed in 1990; 3) police laws, formally subject to legislation of the Lander (regional governments), but highly inspired by the conference of the interior ministers who prepared a standard draft for a unified police code; 4) the penal procedure code, containing police powers as part of the criminal justice system, subject to federal legislation.

As in the 70s when generalized powers to stop and search at police control points were enshrined in police laws and in the penal procedural code, the executive intended a harmonization of the legislation on police powers.

Regulations for data collection and processing and covert action are now virtually the same in police and penal procedure codes. These powers are as follows: general powers to collect and store personal data and to pass them on to other agencies; computer matching; notification in a police search system of purposes of covert registration (police surveillance); long time observation; use of informants; use of undercover agents; use of technical means for surveillance - from video cameras to bugging.

Traditionally police powers could be directed against suspects or persons causing a concrete danger to public security (disturbants), these new powers clearly refer to non-suspects and thus remove the traditional legal limitations on police powers. Beside the traditional judicial figures of concrete suspicion (in penal procedure) and concrete danger (in police laws) a new one was introduced: that of 'preventive crime fighting'.

In the past police intervention had to be legitimized and documented in relation to real incidents - crimes that had occurred or were imminent. The new idea is that the police must intervene and investigate before a crime occurs. The police 'philosophy' of prevention has now been introduced into the legal context. Information and intelligence gathering that since the beginning of the 70s had become the backbone of police activity, now were becoming their legal basis.

Up until now five of the eleven Lander of the former FRG and all the five new Lander of the former GDR still have not renewed their police laws. Drafts for a renewed penal procedural code failed to pass parliament in 1988 and in 1989. In 1990, a third attempt was made by the Bundesrat - the chamber of the federal parliament representing the governments of the Lander. The conservative governments of Bavaria and Baden-Wurtemberg presented in March 1990 a proposal for a "law against drug trafficking and other forms of organized crime", which in its first version passed the Bundesrat in June 1990 with the votes of the majority of Social Democratic governed Lander. It could not be ratified by the Bundestag before the general elections in December 1990. The legislative process started again with virtually the same proposal in the new session beginning in 1991 and has not yet passed the Bundesrat.

The Bill introduces new offences such as money laundering and enlarges a few others which were formerly minor offences. For a whole range of offences considered to be organized crime there will not only be a penal sanction but also a forfeiture of assets 'in cases

that the circumstances let it seem reasonable' that they have been illegally gained. The burden of proof is on the suspect not the police. Despite the appearance of being against 'organized crime' the new police powers can be applied in cases of 'considerable offences' or in cases which cover political offences (S.129a - terrorist associations), sexual offences and other forms of crimes difficult to investigate. In most of the cases the public prosecutor or a judge will have to order the police activity.

The most problematic parts of the Bill refer to technical surveillance and undercover agents. Even the Liberal partners of the Christian Democrats felt uneasy allowing the police to bug private apartments and houses and to use police undercover agents without even presenting them later in court. Under pressure from liberal politicians (who for electoral reasons wish to maintain their image as brake on the excessive demands of the executive), the Federal cabinet decided to change specific proposals of the Bill. The bugging of private rooms should only be allowed in cases when an undercover agent is about to enter private rooms and who has to be safeguarded by of technical surveillance. The cabinet decision that undercover agents should not have to reveal their identity but would have to reveal the fact that they acquired their evidence by means of infiltration has led to protests from the police.

Another Bill will be discussed in the Bundestag this autumn. An amendment of the law on foreign trade has been proposed which will allow the Customs Criminal Investigation Office to become another agency with powers to intercept telephones. Until now this was allowed to the secret services in cases of national security (regulated in the Law on Article 10 - mail and telephone secret - of the Constitution) and to the police investigating in special crimes (regulated in S.100 a penal procedural code). The power to intercept telephones will be used by Customs to conduct investigations especially against the illegal arms trade. The debate began during the Gulf war, when German enterprises were revealed to have continued business with Iraq after the start of the embargo.

### **Spain and Portugal join Schengen Group**

On 24 June Spain and Portugal formally joined the Schengen Group by signing the 1985 Schengen Accord and the 1990 Supplementary Agreements. The other member countries are: Germany, France, Belgium, Holland and Luxembourg. The Agreement covers the abolition of border controls, co-operation on visas, immigration and policing policies. One of the primary objectives of Schengen is the abolition of border controls which the four other EC countries - UK, Denmark, Greece and Ireland - say they want to maintain. However, Greece has now asked for observer status. Although the UK government which is firmly opposed to getting rid of border controls it is holding meetings with the Schengen Group on the exchange of information.

*Migration News Sheet*, July 1991.

### **Police chief gets suspended sentence**

In August 1982, three Irish citizens, Stephen King, Michael Plunkett and Mary Reid, were arrested by a special anti-terrorist police squad in their flat in Vincennes, a Paris suburb. They were charged with possession of weapons but on 24 September 1991 a court accepted that the police had in fact planted the weapons. Among those found guilty was the police chief who is to take charge of security at the March 1992 winter Olympics. Christian Prouteau received a 15 month suspended sentence for "orchestrating the whole affair", although at a court hearing last June, a Captain Barril claimed that the defence minister at the time,

Charles Hernu who died in 1990, gave the go-ahead for the operation.

*Irish News*, 25.9.91.

### **Donna Maguire extradited**

The Dutch Justice Ministry agreed in September to extradite Donna Maguire to Germany where she is to face questioning about an IRA bombing of a British barracks in Osnabruck which occurred in June 1989. Sean Hick and Paul Hughes were extradited from Holland to Germany in July and are being held with regard to the same incident. (see Statewatch Bulletin 4)

### **Human rights: Two cases currently before the European Court**

In March 1991 the Commission held admissible a complaint relating to non-access to security files by their subjects. The background to the case of *V v Netherlands* was a raid in November 1984 by an anti-militarist group, *Onkruid*, on the Utrecht offices of the 450 Counter-Intelligence Detachment of the Army Intelligence Service (450-CID). The raiders found the names of 178 civilians and 64 organisations 'noted' on the planning board of the Infiltration Influencing Outline, as dangerous to the State. Fifteen of the civilians had a special red tag to indicate that they were considered 'hazardous to military mobilisation'. The files themselves were held elsewhere, and material seen by *Onkruid* suggested in addition that there was illegal collaboration between 450-CID and the civilian Intelligence Security Service (BVD), the Police Intelligence Service (PID) and possibly the Central Detective Intelligence Service (CRI). The information was published, and some of the named individuals requested access to the information on them in the files of 450-CID and the BVD. Ministers in charge of both departments refused to acknowledge the existence of the files. Dutch law allowed disclosure of information by public bodies to be withheld on grounds of national security. The applicants claimed a violation of their right to respect for their private life, under Article 8 of the European Convention on Human Rights, and said that the observation and registration by the security services, and the subsequent refusal to disclose the files, could not be justified by national security. The Commission declared the complaint admissible on 4 March 1991.

The second case *Niemitz v Germany*, declared admissible on 5 April 1990, concerned a search of a lawyer's office under a search warrant to seize documents disclosing the identity of a criminal suspect, KW, and his whereabouts, after the lawyer had refused to disclose these. The suspect was connected with a company which used the lawyers' office as a forwarding address. The Commission held admissible a complaint under Article 8 that the search was a violation of the applicant's privacy.

*Human Rights Law Journal* Vol 12 nos 5, 6-7, pp 219, 284.

### **Europe - new material**

**European public law: reality and prospects**, T Koopmans, *Public Law*, Spring 1991, pp53-63.

**Discretionary life sentences and the European Convention on human rights**, Genevra Richardson, *Public Law*, Spring 1991, pp34-41.

**The European Convention on human rights in Scots law**, J L Murdoch, *Public Law*, Spring 1991, pp40-51.

**Racism and politics in Europe today**, Etienne Balibar. *New Left Review*, no 186, March/April 1991, pp5-19.

**Trade unions and Europe**, Denis MacShane. *Political Quarterly*, Vol 62, no 3, July/September 1991, pp351-364.

**Britain and the evolving European Community**, Special issue, *Public Policy and Administration*, Vol 6, no 1, Spring 1991, pp80, £13.

**Europe: an even closer union**, David Martin MEP, Spokesman Books, 1991, pp102, £6.95 (pbk). Looks at the need for placing EC-wide Treaties under democratic control. Includes chapters on foreign policy and citizens rights.

## PRISONS

### Life sentences

The number of men and women receiving life sentences between 1979 and 1989 was:

	Men	Women
1979	149	8
1980	181	2
1981	153	7
1982	206	9
1983	136	4
1984	138	6
1985	164	6
1986	183	9
1987	169	5
1988	206	12
1989	176	11

*Hansard*, written answer, 11.6.91.

### Cost of prisoners

The average cost of detaining a prisoner in a dispersal prison (where category A prisoners are usually held) is £575 per week, and that for category B training prisons is £318.

*Hansard*, written answer, 11.6.91.

### Prisons - new material

**Macro-economic determinants of penal policy: estimating the unemployment and inflation influences on imprisonment rate changes in the United States**, G T Lessan. *Crime, Law and Social Change*, Vol 16, no 2, 1991, pp177-198.

**Speeding up justice: time limits on custodial remands**, Paul F Henderson. *Home Office Research Bulletin*, no 30, 1991, pp26-29.

**Determining sentence lengths**, John Boyle. *Law Society's Gazette*, no 32, 11.9.91, pp26-27. Looks at the anomalies in the rules governing remission and parole.

**John Bartell - a leader at bay**, Tony Judge, *POLICE*, October 1991, pp24-6 and 29. Interview with the chairman of the Prison

Officers' Association.

**Private prisons - fight is fixed**, Adam Sampson, *Prison Report*, Autumn, 1991. Looks at the tendering process for the Wolds Remand Centre, the first private prison.

**Custody, Care and Justice: The way Ahead for the Prison Service in England and Wales**, Cmnd 1647, HMSO, £11.20.

**Deaths in Custody in Britain and Australia**, David Biles. *Howard Journal*, Vol 30, no 3, 1991, pp110-120. Comparative study covering deaths in prison and police custody.

**Violence in Prisons: The influence of regime factors**, David J Cooke. *Howard Journal*, Vol 30, no 2, 1991, pp95-109.

## NORTHERN IRELAND

### Amnesty Alert

Amnesty International has for the first time issued an 'urgent action' notice in relation to Northern Ireland. Such a notice means that AI members worldwide are asked to contact the relevant authorities to appeal on behalf of the victim. In this case, the victim is Damien Austin (17) who alleges that the RUC ill-treated and threatened him in Castlereagh interrogation centre. Austin claims he was verbally abused, punched, slapped, and spat upon. His trousers and underpants were repeatedly pulled down, a cigarette lighter held towards his pubic hair, and death threats were made. He also claims to have been burned with a cigarette on the face. During a second detention, Austin alleges that detectives punched him in the stomach, on the arms and throat and back of the head. He further says that detectives placed boots between his legs and applied pressure to his testicles. He claims that detectives tried to choke him as well. His right ear was pulled and stitches from a previous injury burst.

In a High Court affidavit, Austin's doctor stated that he 'examined him in detail and found evidence of severe assaults to his body. In addition to the physical injuries he appeared dazed and apprehensive ... I can confirm that Damien Austin is being subjected to severe ill-treatment and the police doctor agreed with me on this'. Austin is one of more than twenty cases of alleged ill-treatment currently being monitored by the Committee on the Administration of Justice. His detention came during the run-up to a local government bye-election in North Belfast in which his father, Joe Austin, was standing as the Sinn Fein candidate. Joe Austin was duly elected. In October Amnesty International decided to refer this case and other similar ones to the United Nations Committee on Torture.

*Just News*, Bulletin of CAJ, September 1991; *Guardian*, 29.10.91.

### Prison Suicides in Irish Republic

The Report of the Advisory Group on Prison Deaths in the Irish Republic was published on 10th October. The Group was established by Minister for Justice, Mr. Burke, following a number of suicides in Mountjoy prison in 1989. Between 1975 and 1990 there have been 23 suicides and 10 deaths from drug overdoses or 'natural causes'. Comparing the suicide rate with British figures, the report points out that the Republic has double the England and Wales prison suicide rate, and a rate which is 85% higher than the Scottish one.

Most of the suicides occur during 'lock-up' (8pm to 8am) and are carried out by men under the age of 25, although there have been female suicides and the Report notes 'there is a relatively high level of self-mutilation among female prisoners'. Three-quarters of the recorded suicides were carried out by prisoners hanging themselves from cell window bars and the problem is evidently concentrated in Mountjoy jail, built in 1850. Remand prisoners accounted for 35% of the suicides.

The Report makes 57 recommendations. It suggests that special precautions be taken with remand prisoners, such as increasing the availability of medical staff and the eventual building of a separate remand unit. Prisoners thought to be at risk should be kept in cells without window bars. The report also complains about the overcrowding in Mountjoy, poor sanitation and the lack of prison work. Facilities for 'psychiatrically disturbed' prisoners need to be developed, says the Report, in such a way that they can be accommodated in a ward setting under 24 hour observation.

*Irish Times*, 11.10.91.

### **New rifle grenades introduced**

British Army units stationed in Northern Ireland have been issued with anti-tank missiles which are launched from a rifle. The new missiles, made available from 31 July, are made by the French armaments company Luchaire and are classed as a light rifle grenade. The grenade is capable of being launched from a standard issue infantry SA80 rifle, is 15 inches long and is supposed to have a range of 360 metres. The weapon was used extensively during the Gulf war on a trial basis, where it proved popular with soldiers, according to an army statement. Now it is being deployed to strengthen border units. Military sources claim that the weapon will only be used in rural areas to deter IRA attacks on border checkpoints and sentry posts. A spokesperson said, 'the purpose of the weapon is not to stop the vehicle carrying explosives but to give soldiers the ability to apply appropriate violence back. In essence, to inflict casualties on the terrorist driving it at a checkpoint.... We are hoping that the terrorists, knowing that we now have a weapon which can do them considerable damage, will be deterred from launching large bombs in lorries, vans or trailers at security bases.' No details were given regarding the rules of engagement for the grenade.

*Belfast Telegraph*, 29.8.91; *Irish News* 30.8.91

### **Northern Ireland Human Rights Assembly**

The Northern Ireland Human Rights Assembly is being held at the Polytechnic of North London, Holloway Road, London N1 on 6-10 April 1992. There will be 12 working Commissions with each based on two or more internationally accepted treaties or resolutions such as the European Convention on Human Rights. Details from: Human Rights Assembly, c/o National Council for Civil Liberties, 21 Tabard Street, London SE1 4LA.

### **Northern Ireland - new material**

**Discrimination and Public Policy in Northern Ireland**, R Cormack and R Osborne, Oxford: Clarendon Press, 288pp.

**Prisoners: The Civil War Letters of Ernie O'Malley**, R English and C O'Malley, Dublin: Poolbeg Press, 1991, 164pp, £7.99.

**The Vale of Tears**, C McCrystal, *Independent on Sunday* 6.10.91, pp2-5. Looks at the circumstances and community response

surrounding the IRA killing of farmer Tom Oliver.

**Black or Green? Protestants for a United Ireland**, R.McVeigh, *Irish Reporter* no 4, pp20-22.

**Ulster and the Downfall of the Labour Government 1974-79**, J Newsinger, *Race and Class*, Vol 33 (2) pp45-57.

**The Stormont Administration 1921-72**, J A Oliver, *Contemporary Record*, Vol 5 (1), pp71-104.

**Morality Play**, B Rolston, *Chartist*, Autumn 1991, p7. Deals with the controversy surrounding sanctuary in Newry Cathedral.

**In Whose Name? Britain's denial of peace in Ireland**, Troops Out Movement, 30pp, 75p.

**Independent Commission for Police Complaints for Northern Ireland: Third Annual Report 1990** HC 384, HMSO, May 1991, 28pp, £5.50.

**Human rights in Northern Ireland**, Helsinki Watch, Human Rights Watch, Oct 1991, 191pp.

## **RACISM**

### **Alarming increase in racist attacks in Europe**

Recent months have witnessed an dramatic escalation in racist attacks across Europe. In Germany, as the first anniversary of unification approached, the Bonn government claimed to be powerless to halt a flood of coordinated neo-nazi attacks on refugees and immigrants that have left hundreds injured and several dead. In one week in September alone eight refugee hostels were firebombed, sixty asylum seekers injured and two Africans died.

The attacks have been countrywide, but concentrated in the east. One of the most serious incidents was at Hoyerswerda, near Dresden, where hundreds of neo-nazis launched firebomb attacks on two refugee hostels and rampaged through the town for several days. A Berlin umbrella organisation, Coordination of Refugee Groups, ran a convoy of cars between Berlin and Hoyerswerda to get besieged refugees out of the town. Eventually the siege was lifted when over 300 asylum seekers were bussed to army barracks.

Much of the blame for the attacks has been attributed to the German Alternative Movement. In the midst of the terror they organised a neo-nazi concert, to celebrate reunification, with by the British band Screwdriver. Before the event several people accompanying the group were arrested and charged with grievous bodily harm after stabbing, and seriously wounding, a German youth following an attack on a youth club in Cottbus. Cottbus is an industrial town south-east of Berlin which is becoming known as a centre for violent skinhead activity. The incident lends credence to the claim that Germany is becoming a focus for fascists from throughout Europe.

In Berlin a demonstration in support of the refugees attracted 20,000 people but was broken up by police charges after two hours of peaceful protest. Many people were injured and the organisers had to disperse the demonstration after the police used tear-gas. Over 60 people were arrested.

Across the border, in Switzerland, there have also been firebomb attacks on refugee centres, the most recent at Schaffhausen.

In Italy, during August, two Senegalese men holidaying in Rimini

on the Adriatic coast, were murdered in a brutal gun attack by a fascist death squad. A third man was seriously injured in the attack. The squad has been dubbed the 'Uno Gang' because of its use of a stolen white Fiat Uno car during a series of attacks, which so far have left 15 dead and 21 wounded. The majority of those attacked have been either refugees or gypsies.

Prosecutor Roberto Sapio, who is investigating the case, and Libio Gualtieri, chairman of the anti-terrorist commission have linked the killings with a series of right-wing terrorist supermarket killings in Belgium in 1983-84 which left 28 dead. A Belgian parliamentary investigation into the 'Brabant massacres' in 1990 painted an alarming picture of right-wing terror and accused police officers of complicity and being sympathetic to the killers.

In Barcelona, Spain, 400 fascists went on the rampage attacking blacks, Arabs and other passers-by during October. They also wrecked a pacifist bookshop and beat-up the staff.

The far right have also made electoral gains in Austria, Sweden and Denmark. In France former President Valéry Giscard d'Estaing's Union for French Democracy (UDF) have attempted to exploit the immigration issue by suggesting an alliance with the ultra-right Front National in the build-up to 1993 general elections. *CARF* Nov/Dec 1991; *Guardian*, 7.9.91, 27.9.91, 2.10.91, 8.10.91; *Independent*, 27.9.91; *Irish Times* 14.10.91; *Socialist* 9.10.91

### **Rolan Adams murderer jailed for life.**

Mark Thornburrow, a 19 year old white youth from Thamesmead, has been found guilty, and jailed for life, for the murder of a black youth, fifteen year Rolan Adams, last February (see Statewatch 3). Rolan had been standing at a bus stop with his brother, Nathan, when they were racially abused by a group of white youths who had been drinking at the nearby Wildfowler pub. Thornburrow then stabbed Rolan in the neck with a butterfly knife. During the trial both the prosecution and the defence attempted to underplay the racist motive, but Judge Kenneth Richardson was 'satisfied that there were racial overtones.'

Following Rolan's death the fascist British National Party (BNP) attempted to exploit the situation by marching through Thamesmead and attacking a meeting addressed by black American activist, the Reverend Al Sharpton, who offered support to the Adams family.

After the successful prosecution of BNP deputy leader Richard Edmonds by Rochdale council for the illegal display of their stickers, London's Greenwich council have warned the BNP that they will prosecute them if any of their stickers appear in the borough. Greenwich's leader Quentin Marsh said: "In a multi-racial borough like Greenwich many residents find the BNP stickers extremely offensive and threatening. I am issuing a public warning to Richard Edmonds and his nazi friends that peddling their filthy slogans in this borough could prove very expensive."

*Caribbean Times* 17.9.91; *Guardian*, 17.10.91

### **Racism - new material**

*CARF* No 5 (September-October 1991) contains a major article on refugees (Refugees: Countdown to Zero, and articles on deportations, the British National Party, and racist attacks. *CARF* is available from: BM Box 8784, London WC1N 3XX, at £5.00 for a year's subscription (6 issues).

**Middlesborough 1961: A British Race Riot of the 1960s?** P Panayi. *Social History*, Vol 16, no 2, May 1991, pp 139-153. Examines attacks on immigrants.

## **MILITARY**

### **Background reports - Medical Educational Trust**

A series of well-documented 'Background Reports' have been published by the Medical Educational Trust. The titles are: Counting the human cost of the Gulf War; Ionising radiation; Chemical and biological weapons; Wars; Nuclear testing and proliferation; Economic conversion; Arms Control treaties, talks and organisations; The psychosocial dimension; Conflict resolution and mediation. Available from: *Medical Educational Trust*, 601 Holloway Road, London N19 4DJ. 071-272-2020.

### **Military - new material**

**European defence in a changing world**, Ministry of Defence press release, 19.6.91. Outlines the proposals for a European Reaction Force.

**Europe within NATO**, Sir Leon Brittan, *RUSI Journal*, Summer 1991, pp35-38.

**European Security in the 1990s**, Richard Latter, Wilton Park papers no 32, 1991, pp 30, £7.50.

**Britain's defence for the 1990s: less of the same**, Ian Kemp, *Jane's Defence Weekly*, 20.7.91.

**The Gulf war and the future of NATO**, John Train, *Armed Forces Journal*, July 1991, p24.

**The Gulf War, Iraq and Western Liberalism**, Peter Gowan. *New Left Review*, no 187, May/June 1991, pp29-70.

**The call out of reserve forces during the Gulf war**, Peter Rowe, *Public Law*, Summer 1991, pp170-175.

## **POLICING**

### **Neighbourhood Watch warning on Afro-Caribbeans**

A leaflet, issued by a neighbourhood watch group in the Redland area of Bristol and headed 'Message from Redland Police', warns people in the area to dial the police if they notice black people in the area. The leaflet advises residents to contact the police if they see Afro Caribbeans 'aimlessly wandering around looking at houses' or 'knocking on doors'. It concludes 'In fact if you feel uneasy about the way either one or a group of Afro Caribbeans are behaving dial 999 immediately.'

### **Prisoners in police cells**

The number of prisoners awaiting trial held in police cells has passed 1,500 for the first time since the crisis of 1988. This has led to the re-establishment of the national Mutual Aid Co-ordinating Centre at Scotland Yard under the command of Essex Assistant Chief Constable Peter Simpson. The Centre is staffed by about ten officers and will allocate prisoners among force areas according to

cell space.

The average cost of holding a prisoner in a police cell is £220 a night, which is more than four times the cost of holding someone in prison. For the year 1990-91 the total cost of holding prisoners in police cells in England and Wales was £53.5 million, equivalent to the cost of running five prisons the size of Dartmoor.

The overcrowding has also caused an increased rate in the number of suicides in police custody according to the Howard League for Penal Reform. Of the 38 deaths recorded to August this year nine have been 'self-inflicted'. This compares with ten out of 61 deaths for the whole of 1990.

*Guardian*, 30.8.91; *Independent*, 24.8.91; *NACRO news release*, 2.9.91; *Police Review* 30.8.91

### Damages against the police

Lancashire police have paid £35,000 compensation to 56-year old Mohammed Riaz after they wrongly arrested and detained him in 1986. Mr Riaz, who is diabetic and has a heart condition, said that despite suffering severe chest pains while in custody he was refused medicine. In a statement the police accepted 'that Mr Riaz's prosecution was unjustified and that in opposing Mr Riaz's bail applications, the Lancashire police officers concerned were acting with an excess of zeal that cannot now be defended. The plaintiff is a man of exemplary character and suffered considerable distress, anxiety, humiliation and damage to his reputation.'

The Metropolitan Police have paid £40,000 in damages to a black man, Leslie Burnett, a landscape gardener, following a claim of wrongful arrest, false imprisonment and assault. Burnett was arrested outside his front door, where he was beaten by truncheons and racially abused by police officers who fabricated a case against him, alleging that he had been tampering with a car. Burnett sued the Metropolitan Police who agreed to the settlement without admitting liability. Burnett said: 'I am pleased, but what about the police officers who would have sent me to jail? I would like to see them sacked or charged.'

Sixty-one year old road sweeper, Ernest Cusworth, received £60,000 damages at Sheffield High court after a jury found South Yorkshire police guilty of wrongful arrest, false imprisonment and assault. Mr Cusworth, who was leaving for work, was charged by police in riot gear following picketing at Cortonwood Colliery during the miners' strike in 1984. He has not been able to return to work since then. In June South Yorkshire police agreed to pay £500,000 in damages and costs to former miners injured during clashes with police outside Orgreave coking plant, (see *Statewatch* 3). In October the Derbyshire police paid £50,000 in an out-of-court settlement to an ex-miner arrested for obstruction on the M1. He was later cleared and took out an action for alleged assault, wrongful arrest, and false imprisonment.

*Independent*, 15.3.91; *Independent*, 2.7.91; *Guardian*, 2.7.91; *Police Review*, 5.7.91; *Guardian*, 10.7.91; 23.10.91.

### Compensation in civil actions

The amount paid out by the Metropolitan Police in compensation as a result of court proceedings and in out-of-court settlements was:

1988	£388,000
1989	£523,000
1990	£836,000

In June 72 Metropolitan police officers were currently suspended from duty.

*Hansard*, written answer, 24.6.91.

### Met guilty of sexual discrimination

The Metropolitan Police have agreed to pay £5,000 (including £2,000 in costs) in settlement of Ms Eve Sheere's claim of sexual discrimination. Ms Sheere is a civilian employee of the force working at the Houses of Parliament who claimed that her promotion had been prevented because of the discrimination against her.

*Financial Times*, 4.7.91

### Policing - new material

**Wickersham to Sutherland to Katzenbach: evolving an 'official' definition for organised crime**, D C Smith. *Crime, Law and Social Change*, Vol 16, no 2, 1991, pp135-154. The article discusses two pieces of research undertaken to study organised crime.

**The man at the kerb**, Brian Hilliard and Gary Mason. *Police Review*, 11.10.91., pp2046-47. Looks at the background to the downfall of Sir Allan Green, the Director of Public Prosecutions, who was stopped by the police for alleged kerb-crawling.

**A helping hand for women**, Det Chief Inspector Jacqueline Malton. *Police Review*, 11.10.91, p2051. Argues that women victims of crime deserve better support from the police.

**Summarising tape recordings of police interviews**, John Baldwin and Julie Bedward. *Criminal Law Review*, September 1991, pp671-679.

**Police 'professionalism' is the answer to riots**, *POLICE*, September 1991, p20. Article by Ron Hadfield, Chief Constable for West Midlands, and chairman of ACPO's Public Order Committee. He outlines the re-organisation of Police Support Units (PSUs) and the standardisation of training under an ACPO review. The choice was between setting up a 'third force' and 'heightening our criminal intelligence and community awareness'. Police officers, he argues are now more professional and have: 'learned to walk away from trouble on the basis of saying to themselves, "Alright, lad, I'll come back for you in the morning, when you're not surrounded by your mates" '. **Systems could help quell riots**, *Computer Weekly*, 19.9.91. Article on a new Cleveland Constabulary computer system which integrates the forces databases such as its firearms registry and criminal records and pinpoints the location of incidents.

## PREVENTION OF TERRORISM ACT

In June Mildred Gordon, MP for Bow and Poplar, asked 12 parliamentary questions on the operation of the Prevention of Terrorism Act (PTA). The outcome was as follows:

1. Information was provided - 4 questions
2. Information was not available - 3 questions
3. Information was not in the form requested - 1 question
3. Information was not held centrally and could be obtained only at disproportionate cost - 4 questions.

### The National Joint Unit.

There were 3 questions on the National Joint Unit. The first asked

for details on the number of searches made of the records held by the National Joint Unit for the years 1987 to 1990. Previous figures had been provided in the Annual Reports of the Chief Inspector of Constabulary until 1986 when the practice was stopped. The Home Secretary, Kenneth Baker, replied that the number of inquiries 'made of the records held by the National Joint Unit' was as follows:

1987	81,600
1988	77,474
1989	101,766
1990	83,753

As can be seen the number of inquiries reached a peak in 1989 with over 100,000 inquiries. This meant that on average there were 278 checks everyday of the year or nearly 12 every hour. Figure 1 shows the number of inquiries in the period 1979-1990.

(FIGURE 1)

One question asked for a break down of the number of detentions by sex. This was provided for each quarter from the beginning of 1985. From the beginning of 1985 to the end of 1990, 97 women were detained, 33 at ports or airports and 64 inland compared with 929 men of whom 486 were detained at ports and airports and 443 inland. Thus 10.4% of all PTA detainees are women. But this varies from 6% at ports and airports to 13% inland. Figures 2 & 3 show the number of men and the number of women detained each year at ports and airports and inland.

This is the first time in the 17 year history of the PTA that any information has been provided on the number of women detained. None of the official reports or the annual review of the Acts have ever made any reference to the position of women under the PTA.

(FIGURE 2)

The second question asked how many computerised records the National Joint Unit holds on individuals for the control of terrorism in connection with Northern Ireland affairs. The Home Secretary replied that the information is not available in the form requested. This is difficult to understand because in reply to the previous question the Home Secretary noted that there were 'records held by the National Joint Unit'. If he can provide information on the number of searches made, it is difficult to understand why he cannot provide information on the total number of records on the database.

The third question was about the role of the Unit. He said: 'The role of the National Joint Unit at New Scotland Yard is to prepare, on behalf of all police forces in Great Britain, applications to the Secretary of State for extensions of detention and exclusion orders under the Prevention of Terrorism (Temporary Provisions) Act 1989, and to provide advice to police forces on the operation of the Act. The unit is staffed by 17 police officers, most of whom are seconded to it for short periods from provincial forces.'

This is an incomplete answer. It makes no mention of the work, which was the subject matter of the first two questions, namely responding to requests for searches of the 'records held by the National Joint Unit'. If records are held, then it must also be the task of the NJU to collate the information and compile the database with the information.

#### **Women and the PTA.**

#### **Children and the PTA**

Questions were also asked about the number of children who have been taken into care as a result of their parents or guardians being detained or examined under the PTA since 1984. The Home Secretary replied that 'The information is not held centrally and could be only obtained at disproportionate cost'. This suggests that no statistics are routinely kept on the number of children affected by the PTA and the Home Secretary did not assure the House that these statistics would be collected in the future as a matter of policy. There will therefore continue to be no information on how children are affected by the PTA.

#### **Detention under the PTA**

There were four questions on detention under the PTA. Information was requested on the average time from the initial arrest or when first stopped at a port or airport to the first interview and what proportion of people detained were not allowed to either contact a solicitor or a friend for the first 48 hours. The information either was not available or could be obtained only at disproportionate costs. However, the Home Secretary did provide information on the extent of access to a solicitor or a friend in response to a PQ in July.

He pointed out that police forces do not generally make information from custody records available to anyone but the

suspect or his or her legal representative. However, information was now available from a recent study by the Home Office research and planning unit. This is the first study ever undertaken by the Home Office into any aspect of the PTA.

(FIGURE 3)

The study showed that out of 214 suspects who were detained in England and Wales between 22 March 1989 and 11 November 1990 under the PTA in connection with Northern Ireland terrorism 95 - 45 per cent - requested that someone be notified of their detention and that the notification was delayed over 36 hours in 6 cases. One hundred and three - or 48 per cent - requested access to legal advice and this advice was delayed for over 36 hours in 8 cases. In one case it was delayed for the full 48 hours.

No information was provided as to why fewer than half of all people detained did not want to contact a friend or have access to a solicitor. In addition, the figures note only the number of people that were held incommunicado for 36 and 48 hours respectively. There was no information on the number held incommunicado for shorter periods.

There is a further problem with the statistics. The study looked at 214 suspects who were detained in the period from 22 March 1989 to 11 November 1990. This period, however, does not coincide with the quarterly periods used by the Home Office in its regular series of statistics on the PTA. In any event it appears that the Home Office study has not included all suspects who were detained. The quarterly figures show that from 1 April 1989 to 30 September 1990 - a period which is nearly a month and a half shorter than that used by the Home Office - 242 people were detained. This is 28, or 13 per cent, more people than in the Home Office Study. Overall, the Home Office Study probably excluded about 45 people or nearly one fifth of those detained. The important question therefore is how representative the Home Office figures are of all the people detained.

#### Charges after arrest under the PTA.

One question asked for details of the charges brought against persons detained under the PTA, other than for offences under the PTA itself, in the period between 22 March and 31 December

1990. The information is reproduced in Table 1. It records offences against 17 people. As 139 people were detained in the period, fewer than 7% of them were charged with offences other than under the Act.

**Table 1: Total number of people charged with criminal offences, other than under the PTA, shown by a) principal offence, b) where charged and c) outcome of the charge between the period 22 March and 31 December 1990.**

No.of people	Offence	Where Charged	Outcome
1	Conspiracy to cause	London	In two cases the explosions charges were dropped. The third is awaiting trial.
2	Conspiracy to murder	London	Awaiting trial
1	Possession of a	London	9 months in young offenders' institution with intent to endanger life
1	Possession of a firearm in an aerodrome	Bedfordshire	Awaiting trial
2	Assault occasioning actual bodily harm	1 Wiltshire 1 London	Fined 4 months imprisonment
1	Driving with excess alcohol	Essex	Fined
1	Driving whilst disqualified	War/cshire	6 months' imprisonment suspended for 2 years
4	Various offences 1968 & 1978	2 London 1 Essex 1 Surrey	1 Failed to appear under Theft Acts - warrant issued 1 Fined Conditional Discharge 6 months' imprisonment suspended for one year
1	Possession of forged passport & driving licence	Greater Manchester	Fined
1	Criminal damage	Belfast	1 month in young offenders' institution

The main feature that stands is the way in which this exceptional and temporary legislation is apparently being used to police incidents which have nothing to do with political violence. Under the PTA a police officer may arrest anyone whom they have

reasonable suspicion is involved 'in the commission, preparation or instigation of acts of terrorism'. It is difficult to understand how a person arrested for 'terrorism' then ends up being charged with ordinary criminal offences such as drink driving, driving while disqualified or theft. It is also difficult to understand how a charge of assault occasioning actual bodily harm arises from an initial suspicion of 'terrorism'. It appears that the PTA is increasingly being used to police ordinary crime and a process of 'normalisation' of emergency legislation is taking place.

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### Background document files

The following background files are available:

**Gladio** *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** (1984) 2pp. Total 6 pages. Cost £1.50 inc. p&p.

*Statewatch* is produced by an independent group of journalists, lawyers, lecturers and community activists.

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### Contributions

Contributions are welcomed. Please send us any pamphlets, reports, documents, press releases etc you think could be included in the bulletin and/or on the database.

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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