

ARREST POLICY FOR PROTESTANTS

1. The Army's present arrest instructions provide that soldiers are to arrest, in addition to persons caught red-handed in the act of committing an offence, persons in the following categories:

- a. Anyone against whom there is known to be evidence to justify the preferring of criminal charges.
- b. Anyone against whom there is thought to be evidence which might, after questioning, justify the preferring of criminal charges.
- c. Anyone known to be holding officer rank in the Provisional IRA even though there is no evidence to justify criminal charges.
- d. Provisional IRA volunteers who, on the strength of reliable intelligence, are known to be an exceptionally serious threat to security.
- e. Anyone in the company of a person arrested "red-handed" if the arresting soldier suspects him of having committed or being about to commit an act prejudicial to peace.

2. From this it will be seen that arrests are linked to the prospect of bringing criminal charges, except in the case of categories c and d - i.e. Provisional officers and certain volunteers.

3. The policy does not therefore provide for the arrest of Protestant terrorists except with the object of bringing a criminal charge. Protestants are not, as the policy stands, arrested with a view to their being made subject to Interim Custody Orders (ICOs) and brought before the Commissioners. The Secretary of State has indicated that in individual cases he will be prepared to consider on their merits applications for Interim Custody Orders in respect of Protestants, but such applications for Protestants will only arise where a person who at the time of arrest is thought to be criminally chargeable turns out during questioning not to be chargeable.

4. Ministers have judged that the time is not at the moment ripe for an extension of the arrest policy in respect of Protestants. The object of this note is however to suggest a form of words which can be incorporated in the Arrest Policy Instructions when the time comes for such an extension.

5. It is very difficult to lay down precise criteria to define those Protestant terrorists who should be arrested. With the exception of the UVF, Protestant extremist organisations are not in themselves illegal; it is not therefore possible to regard all those holding certain defined positions in Protestant organisations as dangerous terrorists, as we regard officers in the Provisional IRA.

6. It is suggested, therefore, that a category defined along the following lines should be added to the categories of persons to be arrested:

"Protestant terrorists who are known on the strength of reliable intelligence to be an extremely serious threat to security, and for whom, in the absence of evidence which could form the basis of a criminal charge, a strong case could be made for an Interim Custody Order."

7. It could be argued that the UVF, which like the IRA is an illegal organisation, should be singled out for special treatment. Two possibilities are:

(i) To provide that all members of the UVF are to be arrested.

(ii) To provide that persons holding officer positions in the UVF are to be arrested.

8. The present arrest policy does not provide for the arrest of all members of the Provisional IRA, and it would be illogical to go further in the case of the UVF than we do in the case of the IRA. The arrest of officers in the UVF is a more realistic option; but it is doubtful whether the intelligence available in their cases is sufficient to support applications for Interim Custody Orders, or subsequent Detention Orders by the Commissioners, except of course where a UVF officer falls 'anyway' within the category defined in paragraph 7 above.

9. The arrest instructions will, in any case, require overhaul when the awaited improvements are introduced to the law on membership of illegal organisations in order to remove the present difficulties in securing convictions. In practice, the references to "criminal offences" in the present arrest instructions have not been taken to include membership of an illegal organisation: otherwise the Army

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