

PREREQUISITES FOR PROGRESS IN NORTHERN IRELAND

WRITTEN EVIDENCE OF DR PATRICIA LUNDY, SENIOR LECTURER, UNIVERSITY OF ULSTER, TO THE COMMISSION OF SECURITY AND CO-OPERATION IN EUROPE, U.S. HELSINKI COMMISSION

21st March 2012

Dr Patricia Lundy is grateful to the Helsinki Commission for allowing her to submit written evidence to its hearing on "Prerequisites for Progress in Northern Ireland". The submission is based on empirical research. In August 2005, the former Chief Constable of the PSNI Sir Hugh Orde granted Dr Lundy permission to conduct research, and wide and unfettered access to the Historical Enquiries Team (HET) was permitted. In the context of Northern Ireland, this was unprecedented access to policing and provides unique insight into a distinctive process. The HET is an innovative process and a unique concept in policing internationally. The research raises a number of concerns examined in Part 2 of the current submission.

Background

Since the Good Friday Agreement was signed in 1998 there have been dramatic changes that have transformed society. Between 1966 and 1999 approximately 3,636 people died as a result of the conflict in Northern Ireland and many more suffered injury and loss.¹ During this period there were widespread and systematic violations of human rights by state and non-state actors and allegations of collusion between state agencies and Loyalist paramilitaries. The supposition is systematic human rights violations would not happen in a liberal democracy, committed to the rule of law. Northern Ireland demonstrates that this is not confined to underdeveloped dictatorial regimes and can occur in western highly developed democracies with a plethora of human rights protections, legislation and institutions designed to detect and protect victims of such violations within an ostensible democracy. Indeed this context may constrain acknowledgement of abuse as government is less willing to accept institutional failure.

What are the Benefits of an Independent International Truth Recovery Process?

Unlike many other “post-conflict” societies, “truth” recovery was not envisaged as part of the initial Northern Ireland peace deal. To date it has been marked by, what could be interpreted as, a deliberate fragmented approach by the state that is not designed to address the past in a comprehensive and holistic way. Whatever the interpretation of this policy, it has created a vacuum which is filled by almost daily media reports that drip feed toxic revelations about the atrocities of the past raising more questions than answers.

Post-conflict the dilemma is whether, and if so, how, to address the legacy of conflict and address victims’ needs. In the aftermath of conflict, victims often desire ‘truth’, justice and accountability. However, victims are not a homogenous group, some desire answers to unanswered questions about the tragic death of their loved ones; others seek prosecutions; victims’ of state violence frequently prioritise accountability. Internationally, transitional justice initiatives are promoted as a vital component in conflict transformation and a prerequisite for sustainable peace. The United Nations has embraced and employed transitional justice measures and ‘truth’ recovery in particular, in its interventions in “post-conflict” situations. The societal benefits attributed to ‘truth’ recovery (and especially truth commissions) are well documented; it is not possible to explore each in detail here. Briefly, “truth” recovery is important because by acknowledging suffering and wrongdoing and allowing victims to “tell their story” this will assist the healing process. The logic is by learning from the mistakes of the past it will prevent a repetition of human rights abuses in the future — the “never again” maxim. Therefore, “truth” recovery helps consolidate democracy by establishing respect for human rights and the rule of law. Crucially, it can help achieve accountability and combat impunity. However, justice and accountability do not necessarily mean prosecution and imprisonment of those who have been involved in human rights abuses. This raises the question of amnesty (or immunity) and its role, if any, in post conflict peace building and justice. Some commentators have argued that a *de facto* amnesty exists for members of the security forces in Northern Ireland. Amnesty is an extremely emotive topic, but whether we like it or not, society needs to have a conversation about this difficult topic. These are the dilemmas and challenges of grappling with the past. Despite

strong opposition to 'truth' recovery within sections of Northern Irish society, the reality is, 'truth' recovery is taking place by means of a plethora of unofficial and official means. However, this is fragmented, partial and long-drawn-out. Indeed, the current 'drip feed approach' has the potential to undermine, and/or unravel, much good work and progress already achieved. Finding a satisfactory way to deal with the past remains *the* outstanding prerequisite for progress in Northern Ireland.

The Current Position

The UK government has been found in breach of Article 2, the right to life, in a number of cases in Northern Ireland. In a joint judgment delivered on 4 May 2001 the court set out the elements which must be adhered to for an investigation to be Article 2 compliant — effectiveness, independence, promptness, accessibility to the family and sufficient public scrutiny.² In 2002, in response to the above judgments, the UK Government presented the European Court of Human Rights with a “package of measures”, which it claimed were necessary steps to address the issues raised in the Court’s judgment and would ensure future Article 2 compliant investigations. A key component of the “package of measures” was the Historical Enquires Team (HET). There is mounting evidence that some aspects of the current ‘package of measures’ do not have the capacity to effectively investigate some of the more contentious conflict related deaths in Northern Ireland. A prerequisite for progress, in the absence of a comprehensive “truth” recovery process, is the current mechanisms must be capable of delivering impartial and effective investigations. The remainder of this submission to the Helsinki Commission will discuss recent research, conducted by Dr Lundy, on the HET.

Part 1:

Research Report (2009): Can the Past be Policed?

The first research report published by Dr Lundy raised a number of concerns about the HET, including lack of independence and the role of retired RUC officers. The research found that each stage of the HET process had involvement of significant numbers of long serving retired RUC officers; this included the Command Team, senior managers of intelligence and the entire HET Intelligence Unit. The research further noted; given the very high numbers of retired police officers working in the HET, a crucial matter seemingly overlooked was who has oversight responsibility.

While the issue of independence is extremely important, it is not the focus of this current submission.³ Nevertheless, it is important to note that the HET has recently undergone significant changes to its processes and structural relationship with the PSNI. It originally reported directly to the Chief Constable; HET now reports directly to the Assistant Chief Constable (ACC) for Crime Operations. From 2009 HET refers cases (where realistic evidential opportunities exist) back to the Serious Crime branch ("C2") of the Crime Operations Department. This raises a number of concerns which are reflected in a joint submission by the Committee on the Administration of Justice (CAJ) and Pat Finucane Centre (PFC) to the Committee of Ministers (CM) February 2012.⁴ The submission expressed deep concern that since CM assessment of the general measures in 2009⁵ a number of developments significantly undermine the HET's capacity to carry out the work it was deemed capable of doing. Concerns were expressed about the independence and effectiveness of the process underpinning reports prepared by the HET. Whilst some families have received a satisfactory measure of resolution from the HET, CAJ and PFC do not accept that it is an operationally independent unit of the PSNI and have some concerns about HET's capacity to conduct effective independent Article 2 compliant investigations where state actors may have been involved in a death. The submission "formally requested the reopening of scrutiny by the Committee of Ministers of General Measures relating to the HET in the 'McKerr group of cases'."⁶

Part 2:

Research Report (2012): HET Review of Royal Military Police (RMP) 'Investigations'⁷

The remainder of this submission will discuss the HET's review processes and procedures in Royal Military Police (RMP) investigation cases (hereafter RMP cases). RMP cases involve the fatal shooting of over 150 civilians by the British army between 1970 and September 1973.⁸ In November 2011 the HET had completed 36 RMP case reports.⁹ This paper sets out research findings based on the analysis of twenty-four HET reports, relating to seventeen individual RMP cases.¹⁰ The submission considers a number of issues about the way in which the HET conducts investigations in RMP cases. Of particular note are apparent anomalies and inconsistencies in the investigation process where State agencies (in this case the military) are involved, compared to non-state or paramilitary suspects. This raises

questions about the ability of the HET to undertake independent, impartial, effective investigations in cases involving State agencies.

The following aspects of HET investigations in RMP cases are examined:

- 'Pragmatic approach'
- Interviews under caution
- Pre-interview disclosure
- Pre-prepared written statements
- Robustness of interviews
- Equality of treatment
- Editing and changes to reports
- Effectiveness of reviews
- Tracing, illness verification
- Accountability

CONTEXT

The Saville Inquiry revealed that between 1970 and September 1973 an informal agreement (hereafter Agreement) existed between the Chief Constable of the RUC and the GOC of the British army about the conduct of investigations in fatal shootings involving the military.¹¹ The Agreement specified that soldiers suspected of involvement in a fatal shooting episode would be questioned by the Special Investigations Branch (SIB) of the Royal Military Police (RMP); and the RUC would take responsibility for interviewing civilian witnesses and all other aspects of the investigation. These arrangements meant that soldiers involved in fatal shooting incidents were rarely interviewed by the RUC and consequently any opportunity for independence was negated. An RUC policy at the time directed that the RUC should forward all available evidence to the RMP prior to an interview taking place with soldiers.¹² In effect the RMP rarely received witness statements before military personnel were interviewed. The interviews appear to have been conducted informally with no assessment of criminal responsibility. The procedure appears to have been to question soldiers as witnesses, rather than to interrogate them as suspects, thereby dispensing with the need for formal cautions. The adequacy of

RMP investigations was examined in the Saville Inquiry; the following evidence from a military witness captures the statement-taking process: *"It was not a formal procedure. I always wore civilian clothing and the soldier was usually relaxed. We usually discussed the incident over sandwiches and tea."*¹³

In 2003 these arrangements were judicially reviewed in the Kathleen Thompson case.¹⁴ Sir Brian Kerr, Lord Chief Justice of Northern Ireland, concluded that investigation into Mrs Thompson's death was not effective and it is questionable whether the Chief Constable of the RUC had the legal authority to delegate the critical responsibility of interviewing soldiers to the RMP.

HET Investigation Practices and Procedures:

The HET has a number of processes and procedures that it adopts in RMP cases.

1. The 'Pragmatic Approach'

The 'pragmatic approach' refers to HET interviews of suspects conducted 'informally' or not under caution. The soldier is interviewed as a witness, rather than cross-examined as a suspect, thereby dispensing with the need for formal caution. The 'pragmatic approach' appears to be a recent development in HET procedures and as far as can be established is specific to RMP cases.¹⁵ The HET has stated that, 'the methods used for identification, tracing and interviewing military personnel are the same as those employed by the police service'; RMP cases are 'treated as per the guidelines of the Police and Criminal Evidence (NI) Order'.¹⁶ There are very clear codes of conduct and standards that govern criminal investigations. The research indicates that the HET appears to have departed from the accepted standards in RMP cases. It is not within the scope of this submission to the Helsinki Commission to detail numerous examples; the following abstract from recent HET report is illustrative.

- HET procedures in RMP cases are outlined as follows:

"The question as to whether the HET should interview soldiers who were involved in shooting incidents whilst on duty in Northern Ireland is considered on a 'case by case' basis. Usually, but not exclusively, the determining factor

will be around the thoroughness of the original investigation, especially the way in which interviews were conducted by the military, and whether the original interviewers had prior knowledge of any allegations that may have been levelled against the soldiers. Another major consideration is the evidence that was tendered by the soldiers or their representatives at the inquest, and most importantly whether there is any evidence available now that would not have been available to investigators at the time.”

The HET report goes on to say, *“this pragmatic approach was adopted specifically to give the HET maximum opportunity to obtain as much information as possible for the benefit of [the] family. **People who are interviewed under caution as ‘suspects’ are typically either extremely guarded in what they say, or exercise their right not to say anything at all.**”* [Emphasis in bold added].

- Taking into consideration the earlier discussion about the deeply flawed nature of RMP investigations and Sir Brian Kerr LCJ ruling in the Thompson case (2003), and acceptance by the HET that clear discrepancies appear in the statements made, it is unclear why the HET took the decision not to interview the soldier under caution. The RUC at the time were clearly of the opinion that the shooting was unlawful and strongly recommended prosecution of the soldier in question.
- It appears that the HET decision to interview the soldier as a witness (and not as a suspect) fails to challenge and/or reinforces the original procedural inadequacies. Perhaps with the best of intentions in mind, the HET justify this approach as; *“A classic dilemma’. – no information for the families, or adopt a pragmatic approach in the pursuit of some answers for them.”*
- This implies a ‘truth recovery’ process. However, the HET cannot offer the guarantees and/or incentives deemed necessary to encourage ‘truth recovery’ i.e. immunity or amnesty. In the absence of such guarantees suspects would run the risk of self-incrimination.
- Participating in such a ‘pragmatic process’ does not appear to reveal any greater level of substantive information than previously available in the

original papers. Statements tend to be a repetition of the original argument advanced in the RMP interview. The process does however offer the soldier an opportunity to bolster his original statement by plugging any gaps in his defence and to include some additional descriptive self-serving detail.

- Importantly, the research found inconsistencies in HET decision-making to interview military suspects under caution or 'informally'.

- **Tracing and Verification of Illness:**

In a number of cases the HET were unable to identify and trace soldiers responsible for the fatal shooting of civilians and/or key military eyewitnesses.

In some instances, where soldiers have been identified and traced, ill health is a factor in the decision not to interview the suspect under caution or otherwise. In one instance the HET state that the suspect (soldier B) "is suffering from dementia and a heart condition and was unable to assist with the review." But the report goes on to give some limited detail about an interview that seems to have taken place; including soldier B's expression of regret. Importantly, it is evident that the verification of illness (i.e. medical evidence) of soldiers directly involved in fatal shootings in RMP cases is not always confirmed and/or sought by the HET. The process involved is not transparent.

It was confirmed in a recent meeting with Dave Cox (HET Director) and other senior staff that the HET do not always seek verification of illness with regards to soldiers directly involved in fatal shootings in RMP cases (i.e. medical evidence).¹⁷ In addition, further evidence is provided by a member of the legal profession who recently received written confirmation from the HET that medical evidence was not sought in his client's (RMP) case which involved the death of an eleven year old boy (copy of letter on file with the author).

Issues to be considered include:

- In order to comply with Article 2, investigations must be effective and transparent. In this regard the 'pragmatic approach' raises serious concerns.
- There are very clear codes of practice, standards and procedures which govern criminal investigations. The HET appear to depart from the accepted standards and justify this by calling it a 'pragmatic approach'. This raises an issue as to whether the HET is acting outside its authority and powers.
- The nature and conduct of 'informal' interviews (sometimes conducted in the soldier's own home) is not clear.¹⁸
- The research also found inconsistencies in HET decision-making whether to interview military suspects under caution or 'informally'.
- More generally, the 'pragmatic approach' appears to be a recent development in HET procedures and as far as can be established is specific to RMP cases. This raises questions about equality of treatment and procedural impropriety; some suspects appear to receive more favourable treatment than others.
- Differentiation in treatment raises questions about the HET's impartiality in conducting investigations into cases concerning State agencies.
- Legal advice is required to determine whether a 'pragmatic approach' could prejudice any future prosecution. And/or whether this amounts to an abuse of process.
- Are families aware of the risks (if any) in adopting an "informal/pragmatic" approach?
- Is there full transparency in respect of this process?
- How are illnesses verified?
- What does the 'pragmatic approach' deliver (compared to interviews under caution)?
- In view of these concerns, should RMP investigations be brought to the attention of the European Court for consideration?
- The DPP/PPS decision not to prosecute also raises concerns which require further scrutiny.

2. Interviews Under Caution

In RMP cases where soldiers are interviewed under caution the investigation processes and procedures also raise a number of concerns.

- **Pre-interview disclosure:**

The HET states in RMP case reports that, *“there is a legal obligation placed upon the HET to serve on those representing an interviewee a pre-interview disclosure package. This consists of all existing evidential documentation and other material that is relevant to the case.”*¹⁹

Importantly, there is evidence to indicate that the ‘package’ includes contemporary or new witness statements made by individuals who witnessed the death/incident but did not make a statement to the police at the time. It is my understanding that the witnesses, the families, NGOs and/or lawyers who enabled the new witnesses to come forward, were not informed by the HET that new statements would form part of a ‘pre-interview disclosure package’ to solicitors representing soldiers. In a recent meeting with Dave Cox (HET Director), senior staff and the author it was confirmed that new witness statements are included in the ‘pre-interview disclosure package’.²⁰

In response to a Freedom of Information (FOI) request about pre-interview disclosure the HET made the following point; *“Under the Criminal procedures and Investigations Act 1996, the HET is **under no obligation to reveal the prosecution case to the suspect or their legal representative before questioning begins**. However, the Court of Appeal has held that if the police do not provide **sufficient information** to enable a solicitor properly to advise his client, the solicitor is entitled to advise his client to refuse to answer questions under caution.”*²¹ [Emphasis in bold added]

It would appear that the HET has taken, in some cases, a very wide interpretation of ‘sufficient information’.

It is of considerable concern that there appears to be inequality in treatment where State agencies (in this case the military) are involved, compared to non-state or paramilitary suspects. There are examples in paramilitary related historic cases where suspects have received significantly less fulsome pre-interview disclosure.²² There is no clear rationale for this less favourable differentiation in treatment.

- **Pre-Prepared Statement:**

When soldiers are interviewed under caution it is in the presence of their solicitor, recorded, and generally in his/her offices. The soldiers are voluntary attendees. Under these circumstances the HET state that "they are treated as per the guidelines of the Police and Criminal Evidence (NI) Order."²³

An analysis of HET reports reveals that at the start of interviews soldiers present the HET with a pre-prepared written statement. These tend to be carefully crafted detailed statements which have benefited from the wide pre-interview disclosure package and several months preparation. Pre-interview disclosure is likely to have an effect of memory recall and/or jogging memory. It appears that the value of soldiers' statements in terms of the level of additional information revealed (or answering unresolved questions) is limited. Statements tend to be a repetition of the original argument advanced in the RMP interview, but with any gaps carefully plugged, and some additional self-serving personal details about the individual. The process offers the soldier an opportunity to bolster his original statement and defence.

Pre-prepared statements are not uncommon. But the pre-prepared statements in HET investigations appear to depart from standard practice and procedures. The statement has the advantage of the full pre-interview disclosure package (including new/recent witness statements) and weeks or months in preparation, in advance of a HET formal interview. In cases where there are conflicting accounts, it would appear that the HET do not withhold (even recent) witness statements to test the veracity of a soldier's statement.

- **Interviews/ Robustness/ Editing:**

An analysis of a sample of case reports indicates that some HET interviews appear to lack robustness and inconsistencies are frequently not adequately challenged. By way of illustration, the following comment is taken from a recent HET report:

“Soldier A accepted that he shot ‘John’ in the back, but was adamant that he was turning towards him when he fired. He said the fact that the exit wound had come out the front of his body at angle supported what he was saying.”
[John is not the victim’s real name]

This statement does not appear to have been challenged and/or followed up by the HET (i.e. forensic report).

In all of the reports examined, the actual questions put to suspects and answers during HET interviews are not revealed. The content of interviews is edited by the HET (and appears to be summarised); this will be addressed further below. In some instances the extent of the interview amounts to one page and a half in HET reports. The processes and procedures are not transparent.

- **Drafts, Changes to HET Reports:**

It is not clear how in one report the wording of an account given by a soldier to the HET, about his direct involvement in and recollection of a fatal shooting, changed in a redrafted report. The interview was not under caution and it was not recorded. The wording in the report is a summary based on a senior investigating officer’s notes and recollection (or interpretation) of what was said during the interview. The following direct quotes from the original and redrafted report show changes which appear to legally bolster the soldier’s defence.

The direct quotes have been removed to protect the report/victim from being identified.

It is not clear who directed the changes and what the process or procedures involved and what explanation there could be for changing it in this manner whether under caution or otherwise.

Questions to be considered:

Interviews under caution raise a number of concerns as indicated above; in particular that the investigation process and procedures appear to depart from accepted standards.

- Does this amount to abuse of process?
- Does it impair the prospect of future prosecutions should a family wish to pursue this option?
- What power does the HET have to depart from accepted procedures and best practice guidance?
- What is the rationale for treating suspects differently by subjecting some to a more robust process which is compliant with the law and departing from these standards in other cases?
- Are families aware of the risks (if any) in prejudicing future prospects for prosecution.
- Is there full transparency in respect of this process?
- Why are there no written policy documents on procedures for identifying, tracing and interviewing military personnel?

3. Accountability:

To comply with Article 2, investigations must be effective in order to secure accountability. The research raises questions about the HET process, the effectiveness of investigations and ability to hold the military to account. There are individual expressions of regret and/or apologies from individual soldiers in HET reports.²⁴ And, crucially, victims are frequently vindicated. The symbolism of apologies is important for many families; it provides a measure of acknowledgement. However individual expressions of regret or apology should not diminish the obligation to secure accountability, and responsibility, at an individual and institutional level.

Conclusion:

There are many more issues raised by the research that require to be discussed but are outside the scope of the current submission to the Helsinki Commission. The

points above are the most salient for current purposes. Of particular note are apparent anomalies and inconsistencies in the investigation process where the British military is involved, compared to historic cases where non-state or paramilitary suspects are involved. This raises questions about the ability, and/or perception, of the HET to undertake impartial, effective investigations in cases involving State agencies and the extent to which the families participating in the process are aware of departures from accepted procedures. The perception of independence as well as its reality is critical as it impacts directly on the confidence of those who engage in the HET process. A prerequisite for progress is a clear break with the injustices of the past. It is vital that State initiated past-focused mechanisms are impartial, effective and transparent.

¹ In Northern Ireland there are differing estimates of the number of people who have died as a result of the conflict. David McKittrick (ed.), *Lost Lives*, Mainstream, Edinburgh, 1999, p.1476.

² Which encompasses the cases *Jordan v UK* (No. 24746/94); *McKerr v UK* (No.28883/95); *Kelly and Others v UK* (No.30054/96); *Shanaghan v UK* (No.377715/97).

³ See, Lundy, P. (2009) Can the Past be Policed?: Lessons from the Historical Enquiries Team Northern Ireland, Law and Social Challenges, Vol.11, pp.133-138 download at <http://ssrn.com/abstract=1425445>. A copy has been submitted to the Helsinki Commission.

⁴ Joint submission by Committee on the Administration of Justice (CAJ) and the Pat Finucane Centre (PFC) in relation to the supervision of cases concerning the actions of the security forces in Northern Ireland, Submission no. S376, February 2012, p.3-9. Copy available at <http://www.caj.org.uk/>

⁵ In 2009 the Committee of Ministers decided to close its examination of general remedial measures on the grounds that the HET could bring "a measure of resolution" to victims' and had "the structure and capacities to allow it to finalise its work", see Interim Resolution CM/ResDH(2009)44.

⁶ Joint submission to the Committee of Ministers from the Committee on the Administration of Justice (CAJ) and the Pat Finucane Centre (PFC) in relation to the supervision of cases concerning the actions of the security forces in Northern Ireland, Submission no. S376, February 2012, p.3.

⁷ For a full discussion of HET investigations in RMP cases see briefing prepared by Patricia Lundy, available from the author on request.

⁸ There is some evidence to suggest that RMP investigations might have extended beyond 1973.

⁹ FOI Request number F-2011-03623, received November 21, 2011, on file author. "36 review summary reports have been delivered to families." Each victim's family receives a HET report detailing the nature of the review conducted and a response to unresolved questions raised by the family.

¹⁰ The sample of 24 HET reports is made up of 12 individual HET case reports completed between 2010 and 2011; a further 5 individual HET case reports completed in 2006-7; the remaining 7 reports are various drafts of recently completed reports. These reports are part of a much larger sample of HET reports collated by the author from 2006 to the present and cover all categories of deaths.

¹¹ Report of the Bloody Sunday Inquiry, full transcript of the proceedings is available at <http://www.bloody-sunday-inquiry.org.uk>.

¹² The 'RUC policy' is referred to in most of the HET RMP case reports examined.

¹³ Witness INQ2052, see also witness INQ1831, INQ3, a full transcript of the proceedings is available at <http://www.bloody-sunday-inquiry.org.uk>.

¹⁴ Mrs Kathleen Thompson mother of six was killed 6 November 1971 by a British soldier of the Royal Green Jackets in disputed circumstances. See, Kerr.J, In the High Court of Justice in Northern Ireland, Queen's Bench

Division (Judicial Review), In the Matter of an Application by Mary Louise Thompson For Judicial Review, Ref:KERA3639T

¹⁵ In over 100 HET reports I have studied - covering all categories of deaths (unionist civilian/ nationalist civilian/ paramilitary/ security forces) - none refer to a pragmatic approach.

¹⁶ Direct quote from FOI Request number F-2011-03623, received November 21 2001, on file author.

¹⁷ Meeting, 8 February 2012, held in CAJ Office, also in attendance were Patricia Lundy and Gemma McKeown (CAJ), minutes of the meeting are on file with the author.

¹⁸ It is believed that these interviews are not recorded; but it is not clear.

¹⁹ HET Review Summary Report, on file with author. Details of the case are not revealed for reasons of confidentiality.

²⁰ Meeting with Dave Cox (HET Director), Paul Johnson (SIO) and Neill Kerr, 8 February 2012, held in CAJ Office, also in attendance were Patricia Lundy and Gemma McKeown (CAJ), minutes of the meeting are on file with the author.

²¹ FOI Request number F-2011-03623, received November 21, 2011, on file author.

²² This is based on interviews with a number of solicitors representing paramilitary suspects in recently examined historic cases; details of these cases are confidential. A more in depth investigation and scrutiny of comparative cases is recommended.

²³ FOI Request number F-2011-03623, received November 21, 2011, on file author.

²⁴ These apologies raise a number of issues that cannot be adequately addressed in this briefing paper.