



From Lieutenant General
Sir Frank King KCB MBE

GOC 11

General Sir Cecil Blacker KCB OBE MC
Adjutant-General
Ministry of Defence
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Dear a.g.

1. I told you in my letter of 30th December 1973 that I would report to you the outcome of my meeting with the Attorney-General on 8th January. DALS was present during the discussions and I understand that he has already conveyed to you the general picture. I write, however, to let you know my own position and views after seeing the Attorney.
2. Dealing first with the non-specific points, the Attorney-General assured me that he himself carefully reviews every serious allegation against a soldier and that the final decision whether to prosecute in such a case is made by him only after close and anxious consideration of all the evidence and the requirements of the public interest. He assured me in the plainest terms that not only he himself but also the DPP and senior members of his staff, having been army officers themselves, having seen active service and knowing at first hand about the difficulties and dangers faced by soldiers, were by no means unsympathetic or lacking in understanding in their approach to soldier prosecutions in Northern Ireland. Rather the reverse, since directions not to prosecute had been given in more than a few cases where the evidence, to say the least, had been borderline. The case of the shooting of Joseph McCann, a well-known IRA leader, in April 1972 was cited as an example.
3. The Attorney-General indicated that the figures showed that less than 10% of all case files submitted to DPP, dealing with shooting incidents involving soldiers and with allegations of assaults by soldiers, resulted in prosecutions. No soldier was ever prosecuted in this type of case, he said, unless there was evidence of brutality or callousness on the part of that soldier or evidence that the soldier had clearly, unjustifiably and substantially overstepped the mark in the use of force. Whilst this does leave

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room for argument about the quality of particular pieces of evidence and about the interpretation to be put on them, I am bound to say that my worst fears have been allayed, at any rate for the time being, by the Attorney-General's assurances and I feel I am in a position to reassure all soldiers in Northern Ireland on this question.

X | 4. I believe that the presentation of our worries to the Attorney-General was an extremely valuable exercise. He was left in no doubt about the nature and extent of our anxieties; and the assurances which he gave me in return are as specific as they are strong. Furthermore, he made it clear that he is always ready to receive representations from me about any particular case and he undertook to give any such representations the most careful consideration.

5. On the individual cases discussed, the Attorney-General agreed to discontinue the prosecution of Sergeant Crossland but indicated that the prosecution of Private Ross must take its course. There appears to be evidence in the Ross case from non-military sources which, if it is reliable and sound, shows that Ross could not have been misled by Mitchell's behaviour into believing that a genuine and dangerous attack was being mounted either on Springfield Road Police Station or on Ross himself. I need not trouble you with the precise details of all this; suffice it to say that the RUC under the investigational system then in operation had not made this evidence available to us. Indeed, we had specifically asked the RUC whether any additional evidence existed, beyond that contained in the SIB report, and had been told that it did not.

Y | 6. I do not believe this could happen under current arrangements. I had hoped that it would be possible to arrange not only for a complete exchange of factual information between RUC and RMP, but also for the RUC recommendation to DPP to prosecute a soldier on a serious charge arising out of an operational situation to be made known to, and discussed with, my staff before it was finally made. Further detailed discussions between the lawyers this week have revealed basic objections to that but, on the other hand, have produced working arrangements adequate to ensure that we know the full extent of the allegations against a soldier and that all appropriate military contributions to a case are made. To some extent this military input is achieved already by the inclusion in the case file, where it is warranted, of a statement from the Commanding Officer of the soldier concerned dealing with the operational factors and other military nuances which may otherwise escape the attention of the RUC and DPP. In addition the Attorney-General has now undertaken to invite my views on the public interest aspects of the prosecution of a soldier arising out of an operational shooting incident before any final decision in the case is reached.

7. All in all, I believe following the discussions with the Attorney-General that, whilst the situation must continue to be watched carefully, a better understanding now exists between the military and civil authorities involved in these matters; that the lines of communication are being satisfactorily cleared, and that there is at present no need for me to ask you to take any special steps on our behalf.

Your own
Frank