The Rt Hon the Lord Williams of Mostyn QC
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'ON THE RUNS': PRE-CONVICTION CASES

In September I announced that extradition would not be pursued in respect of
sentenced fugitives who appeared to qualify for early release under the Northern
Ireland (Sentences) Act 1998 and who, on making a successful application, would
have had little if any of their original sentence left to serve. That leaves unresolved
the position of fugitives who went on the run prior to conviction. Th Irish
Government has now proposed that we should deal with this group by extending to
them the principle that extradition should not be pursued. The purpose of this
letter is to seek your, and colleagues', views of the feasibility of such a proposal.

When I made my announcement in September I made clear to Sinn Fein that it did
not apply to pre-conviction cases. 17 of the list of 41 OTRs fall into this category.
In the light of a review of all the OTR cases you have now concluded that
prosecutions should be dropped against four pre-conviction cases and are yet to
reach a final conclusion in two others. In the remaining 11 cases you have
concluded that the evidence remains sufficient to afford a reasonable prospect of
conviction and the public interest requires prosecution. Five of these eleven remain
the subject of “live” extradition proceedings. Four of those relate to offences in Great
Britain the fifth to offences in Northern Ireland. Details of all these cases are at
annex A.

As you know we are continuing to consider the wider issues surrounding the
possibility of an amnesty and you have recently written to me on the separate point
of pre-conviction pardons. (I hope to reply on this shortly.) A further option, on which I would be grateful for the views of colleagues, is whether we should take a policy decision to drop extradition proceedings against people suspected of PIRA activity before the Good Friday Agreement. This is one of the options presented in Sir Quentin Thomas’ recent progress report on his review of the on the run issue.

I do not believe it would be an option for me, in Northern Ireland, and Jack in England and Wales to take a view on whether extradition might be discontinued on a cases by case basis without any public announcement of a change in policy. If the new policy were to apply only to offences committed in Northern Ireland Sir Quentin advises that I could, after consultation, introduce a scheme in which we would not pursue extradition in respect of those suspected, (but not convicted) of relevant offences even though proceedings might be initiated if those concerned were found within the jurisdiction. Were this approach adopted he proposes that I would announce both a policy shift, and the reasons for it, and that each live case had been reassessed in the light of that policy. For the scheme to apply for the remaining cases it would need to apply also to offences in England and Wales which would require the Jack to take parallel action, as would the relevant authorities in Scotland if it were to apply to offences committed there. Given the fact that 4 of the 5 live cases relate to offences in England there would seem little point in pursuing this option without extending it beyond Northern Ireland.

Sir Quentin has pointed up very clearly the objectives to dropping extraditions in the absence of a wider amnesty. Such a development could not be presented, as could my earlier announcement on fugitive sentenced offenders, as a piece of tidying up consequent on the early release scheme. As such it has no provenance in the Good Friday Agreement which would make it more difficult to justify in the eyes of the Unionists. The [redacted] and [redacted] cases are also particularly notorious, both because of some of their suspected targets and because of their high profile.
armed escape from Brixton. Although Republicans would probably welcome the spirit of the move they would not be satisfied until the OTRs could return to Northern Ireland without fear of prosecution.

This is a difficult judgement to call and before discussing the options further I should be grateful for your views and those of Jack Straw, with the Prime Minister, (four of these are England and Wales cases), given your personal involvement in the backing of warrants procedure and Jack’s wider extradition policy responsibilities.

Despite all the difficulties I should like, if possible, to find a way of discontinuing extraditions in all pre Good Friday Agreement Irish terrorist cases before they become a greater bone of contention in our relations with the Irish. What I would want to explore is whether the Irish themselves would be prepared to take some of the strain by saying that we had made the move at their request.

I am copying this letter to the Prime Minister, Jack Straw and Geoff Hoon.

PETER MANDelson