WRITTEN EVIDENCE TO THE JOINT COMMITTEE ON HUMAN RIGHTS COVERT HUMAN INTELLIGENCE SOURCES (CRIMINAL CONDUCT) BILL

October 2020

1. This is written evidence to the Joint Committee on Human Rights in response to its call for evidence on the 30 September 2020 on the Covert Human Intelligence Sources (Criminal Conduct) Bill, which was introduced into the House of Commons on the 24 September 2020 and is scheduled to complete passage by the 15th October.[1]
2. The Bill would amend Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) to create a new process of 'Criminal Conduct Authorisations'. The authorisations would constitute an express power for MI5, police forces, and a range of other public authorities to authorise their agents and informants ("Covert Human Intelligence Sources" "CHIS") to commit criminal offences.
3. This briefing is produced jointly by the following human rights NGOs: Reprieve, the Pat Finucane Centre, Privacy International, the Committee on the Administration of Justice, and Rights and Security International.
4. Reprieve, the Pat Finucane Centre, Privacy International, the Committee on the Administration of Justice are claimants in the known as 'Third Direction' case which has challenged the lawfulness of the previously secret MI5 Guidelines that authorise MI5 informants to commit unspecified criminal offences.[2]
5. In December 2019 the Investigatory Powers Tribunal (IPT) issued an unprecedented divided ruling over the legality of the MI5 policy, with a 3-2 split of judges ruling in the Governments favour. This is now subject to challenge before the Court of Appeal.

Executive summary: Key issues with the Bill

6. The Bill represents a belated recognition that regulating the permitted conduct of CHIS must be set up by a formal legislative footing. Whilst we therefore welcome legislation in this area, we have serious concerns about the content of the present Bill, in particular:
    - Unlike the US[3] and Canada[4], the Bill places no express limits on the types of crimes which can be authorised. There is no express prohibition on authorising crimes that would constitute human rights violations, including murder, torture (e.g. punishment shootings), kidnap, or sexual offences, or on conduct that would interfere with the course of justice;
    - The Bill relies on the Human Rights Act as a safeguard, despite the Government making clear that it does not believe that the Human Rights Act applies to abuses committed by its agents, even torture. This is even more concerning in respect of overseas conduct authorised under this Bill.
    - Far from putting "existing practice on a clear and consistent statutory footing", as is claimed in the Explanatory Notes, the Bill provides for the unprecedented 'legalisation' of even serious crimes by covert agents. Authorised criminal offences committed by CHIS would be rendered 'lawful for all purposes'. This would bypass the independent decision-making of prosecutors as to whether the prosecution of a CHIS is in the 'public interest'. This in particular would roll back key reforms of the Northern Ireland peace process.

- The arrangements for authorisation oversight and post-operational accountability are weaker than those for phone tapping or searches by law enforcement, despite involving potentially far more harmful conduct.
- The Bill also bars survivors of abuses, such as the victims of the 'Spy Cops' scandal, from seeking redress through the courts, by protecting those who commit authorised crimes from civil liability forever.

The Bill places no express limits on crimes that constitute human rights violations – even torture, murder, or sexual violence

7. The Bill would insert a new section 29B into RIPA to provide for CHIS criminal conduct authorisations (CCAs). The criteria for such authorisations contain no express limits as to which crimes can be committed – not even murder, torture, or sexual violence.
8. Rather, the test introduced is that the authorising officers themselves need only to 'believe' that the conduct is proportionate, that it is 'necessary' on one of three broadly drafted grounds[5], and that it meets requirements that might possibly be imposed by order by the Secretary of State. The Authorising Officer is also only to 'take into account' whether the objective sought could be achieved other than through authorising crime.
9. There is also no express prohibition on the powers in the Bill being used to authorise children to commit serious crimes as CHIS.
10. In November 2019, Lord Evans a former Director General of MI5 when asked in a BBC interview in the run up to the Third Direction case, whether limitations existed on the present MI5 guidelines on informant criminality appeared to suggest that there were none. When asked whether the policy would permit MI5 agents to engage in 'punishment beatings', for example, he stated "It's not possible for that happen without…[pause] …there are no specific rules on exactly which crimes".[6]
11. The particular experience of the consequences of using paramilitary informants outside of the law during the Northern Ireland conflict becomes relevant here. Security force intelligence practices of tolerating, facilitating, and even directing serious crimes by informants fuelled the conflict, damaged the rule of law, and have left a poisoned legacy to this day.
12. In 1989, Belfast lawyer Pat Finucane was shot fourteen times as he sat down to dinner with his family. It emerged that the Loyalist group responsible had been infiltrated by British intelligence, with the Army inserting a covert agent into the loyalist paramilitary Ulster Defence Association in the 1980s. Following a review of the killing in 2012, then-Prime Minister David Cameron admitted there had been "shocking levels of state collusion" in Mr. Finucane's murder.[7]
13. Claims as to the value of these agents were contradicted by subsequent investigations, finding that agents "had not generally saved lives".[8] Official investigations have also found that the use of informants outside of the law "needlessly intensified and prolonged" the conflict.[9]
14. Further, the ongoing 'Spy Cops' scandal has revealed reportedly widespread involvement of police officers committing very serious sexual assaults as part of their undercover work, and subsequent investigations have found that these abuses should have played no part in efforts to stop crime or public disorder. An internal inquiry in 2014 found that there were never "any circumstances where it would be appropriate for such officers to

engage in intimate sexual relationships with those they are employed to infiltrate and target". [10]

Why the Government's reliance on the Human Rights Act will not be enough

15. The Bill's Explanatory Notes stress that public authorities are bound by the Human Rights Act (HRA), which includes matters such as prohibition of torture.[11] However, the HRA cannot be seen as a safeguard against the authorisation of agent criminality because the Government has in fact taken the (fundamentally wrong) position that the HRA does not apply to crimes committed by its covert agents. For example, the IPT were told that even where an agent has been authorised to commit severe abuses such as torture, the Government does not believe the HRA applies because "the state, in tasking the CHIS…is not the instigator of that activity and cannot be treated as somehow responsible for it…it would be unreal to hold the state responsible."[12]

16. As a result, the Government cannot convincingly claim that the HRA will provide a sufficient safeguard since it does not believe the Act to apply to much of the conduct of covert agents – even when they become involved in abuses such as torture. As Parliament's Intelligence and Security Committee found of the UK's involvement in torture and rendition, the agencies engaged in "simple outsourcing of action they knew they were not allowed to undertake themselves". [13] There is a real risk that this Bill will enable them to do the same in the UK.

17. This worrying position is repeated in the Human Rights Memorandum published with the Bill, which makes the following claim:

> …it is to be expected that there would not be State responsibility under the [ECHR] for conduct where the intention is to disrupt and prevent that conduct, or more serious conduct, rather than acquiesce in or otherwise give official approval for such conduct, and/or where the conduct would take place in any event.[14]

18. If this analysis is correct, an informant could be authorised to actively participate in, for example, a punishment beating or shooting, on grounds that the perpetrator intended to disrupt crime or that the shooting 'would take place in any event'. This cannot be right, but it is nonetheless the Government's clear, public view as to the level of 'safeguards' on crimes authorised under this Bill.

19. Worryingly, the Bill appears to provide the power to authorise CHIS to commit crime outside the UK as well. Section 27(3) of RIPA states that conduct authorised under Part 2 of that Act "includes conduct outside the United Kingdom". Under this Bill, this will include conduct authorised by CCA. This appears to leave it open to MI5 and other public authorities, including MI6 and the MOD, to authorise CHIS to commit potentially very serious crimes abroad. Indeed, during the Second Reading debate on the Bill, the Minister stated that the MOD needs the power to issue CCAs as "it might be necessary to access a proscribed organisation", suggesting that the MOD may wish to use the powers under this Bill to authorise criminal conduct overseas.[15]

20. This significantly widens the risk that criminal conduct authorised under these powers will lead to abuses, reminiscent of what took place during the first decade of the so-called 'war on terror'. For example, could these powers be used to authorise a CHIS to join a proscribed group overseas, and potentially commit abuses against hostages to 'gain the trust' of that group? Or could they be used to authorise a CHIS to join a group overseas to help target its members for unlawful extrajudicial killings?

21. Despite these risks, it is even less clear that the HRA will act as a sufficient safeguard overseas than in the UK. As made clear following the UK's involvement in torture and rendition, it took in some cases nearly two decades to reveal the UK's involvement in abuses, with much of what took place still not fully known. It is highly likely that criminal conduct overseas authorised under this Bill would not be revealed for many years, if ever, leaving victims unable to seek redress.

22. But more fundamentally the Government has sought to limit the extra-territorial application of the ECHR and HRA. It would very likely argue that where a CHIS gets involved in even serious abuses such as torture or murder abroad, these human rights protections would not apply. This makes it all the more vital that express limits are included in this Bill.

23. Moreover, the extra-territorial impact of the Bill raises concerning questions about the UK Government's relations with its security partners. Where MI5, for example, issued a CCA to authorise CHIS criminal conduct that involved criminal activity in the Republic of Ireland, such conduct would be 'lawful for all purposes' under UK law but remain an offence under Irish law. Where the crime involved a serious rights abuse, for example, but the CHIS had returned to the UK, the fact that this activity had been authorised by the UK may make extradition difficult, despite the clear public interest in ensuring accountability for serious rights violations.

Why express limits on crimes will help agents, not place them at risk

24. The Government claims that to set express, public limits on the crimes covert agents can commit would enable the groups they infiltrate to set 'tests', probing their willingness to commit certain crimes and thereby determine whether they are acting as a CHIS.

25. But the Government's argument is contradictory and confused. While claiming that to publish clear limits on conduct would put agents at risk, it also seeks to say the HRA's ban on torture or killing provide these clear public limits. If the UK's position – as enshrined in the HRA – on torture, murder and other serious abuses is clear as the Government suggests, then there is no reason why groups could not create a 'test' as things currently stand.

26. Former Director of Public Prosecutions Lord Ken Macdonald has expressed real scepticism about the claim that clear limits would create "a litmus test for unmasking infiltrators":

> "If you're really one of us, shoot Joe Pesci" — as though crooks need a checklist in a statute to know that an undercover police officer won't kill to order. Ministers should peel their eyes away from The Sopranos and acknowledge that public confidence in official lawbreaking is a fragile thing that requires the reassurance of boundaries."[16]

27. The UK's approach stands in contrast to that of other countries, including the US and Canada. Recent legislation governing the use of agents in by the Canadian intelligence services has put clear legal limits on what crimes its agents can become involved in. The Canadian Parliament prohibited the following offences:

a) causing, intentionally or by criminal negligence, death or bodily harm to an individual;
b) wilfully attempting in any manner to obstruct, pervert or defeat the course of justice;
c) violating the sexual integrity of an individual;

d) subjecting an individual to torture or cruel, inhuman or degrading treatment or punishment, within the meaning of the Convention Against Torture;
e) detaining an individual; or
f) causing the loss of, or any serious damage to, any property if doing so would endanger the safety of an individual.[17]

28. The Solicitor General sought to claim during the Second Reading debate on the Bill that these provisions did not relate to the use of CHISs and that "the specifics of what a CHIS may be tasked by the agency to do in Canada…is not on the face of their legislation."[18] This is clearly wrong. The express limits provided by section 20(18) apply to criminal conduct by both CSIS officers as well as to persons "other than an employee" who are directed by CSIS officers to engage in criminal conduct. The Solicitor General may have mistaken the provisions of section 20 with section 12.2 of the same Act which does make clear that specific criminal conduct which CHIS can be authorised to do is to be specified by direction and so is not 'on the face of their legislation'. However, what CHIS may never be tasked to do is clearly expressed as public limits on what may be authorised.

29. In addition, the FBI has for many years run agents using guidelines introduced in 2006 that expressly ban certain criminal conduct. The agency has learnt from bitter experience as to the need to adopt clear guidelines, with FBI officers themselves receiving long jail terms for their involvement in the crimes of their agents.[19]

30. Far from such actions having helped stop organised crime, FBI agents were found to have exaggerated the impact of their informants and abetted murders and racketeering committed by one group in place of another.[20] As a result, according to guidelines issued by the US Attorney General, the FBI may never authorise an informant to "participate in any act of violence except in self-defense" or "participate in an act designed to obtain information for the FBI that would be unlawful if conducted by a law enforcement agent".[21]

31. Any remaining concerns can easily be dealt with by prosecutorial discretion. If an agent is truly forced to commit a grave criminal act, they may have a defence of duress and if not, they can contend that his prosecution would not be in the public interest. Prosecutorial discretion after the event is the only proper way to deal with such an exceptional situation, if it ever occurs.

Prohibition on CHIS criminal conduct within groups engaged in entirely lawful activity

32. It is also notable that the Bill places no express limits on the types of groups that CHIS activity involving a CCA can be granted for. There is no express prohibition therefore in relation to the activities of Trade Unions, anti-racism campaigns and environmental campaigns that have been the site of illegitimate CHIS activity in the past. Whilst there is of course a much broader question in the prohibition of CHIS infiltration *per se* of groups engaged in entirely lawful activity that is not dealt with under RIPA it is also notable that this question is not expressly addressed in relation to CCA's. A safeguard could be added to the bill that would limit CCA's being limited to CHIS activities in groups linked to serious criminal offences.

Legalising crime: how the bill would end the separation of powers

33. When CHIS criminality has taken place, the independent assessment of prosecutors is essential in determining whether prosecution of a CHIS is in the public interest. But this

Bill would not only bypass prosecutors entirely, it would give MI5 and other executive agencies the unprecedented power to declare serious breaches of UK law 'lawful for all purposes'.

34. This goes far further than the present system for MI5 'authorising' the involvement of CHIS in criminal offences, which does not as a matter of law place 'authorised' criminal offences committed by informants beyond the reach of prosecutors and the courts. That is also the case with other law enforcement bodies.

35. The MI5 'Guidelines on the use of Agents who participate in Criminality' (March 2011), themselves state that "RIPA does not provide any immunity from prosecution for agents or others who participate in crimes,"[22] and makes clear that an authorisation under the policy has "no legal effect" and "does not confer" immunity from prosecution.[23] While we continue to have serious concerns about how the system works in practice, this Bill goes far further and purports to give complete legal immunity.

36. The office of the Director of Public Prosecutions Northern Ireland recently made clear the importance of prosecutors' judgment in assessing CHIS criminal conduct. Commenting on the continuing investigations into the use of a UK agent in the IRA's internal enforcement unit, believed to have committed multiple murders and torture during the conflict,[24] it emphasised that, regardless of the mechanism which the information is conveyed to the DPP ('the Director"), that:

> ...it is important that the following matters are clearly understood and adhered to by those involved: (i) the purpose of any process is to bring relevant facts relating to the decision to the attention of the Director; (ii) no undue pressure should be placed upon the Director in relation to any decision; (iii) the decision as to where the public interest balance lies, having regard to all relevant public interest considerations, is one for the Director alone and nobody else.[25]

37. The intention of the Bill will be to instead make criminal offences committed by CHIS 'lawful' provided that the authorising authorities have given the go ahead for the informant to commit the crime in advance through a 'Criminal Conduct Authorisation'.[26]

38. It is not clear if the significant impacts on the criminal justice system of such provisions have been thought through. Take for example the following scenario – a PSNI detective in Northern Ireland visits the scene of a racist attack conducted to intimidate an ethnic minority family from an area that is thought to have loyalist paramilitary involvement. The attack has caused damage to the property and left the family badly shaken and scared. Diligently discharging their functions the Detective assures the family there will be a through Police investigation. On further internal inquiry however the Detective is informed that the attack whilst directed by a paramilitary leadership was carried out by a CHIS, whose participation was deemed 'necessary and proportionate' not to reveal their cover, and was covered by a CCA. There is in essence 'no crime' for the Detective to investigate, but the Detective will be presumably precluded from informing the family of this, and instead will be expected to deceive the family that an investigation is taking place. It is not clear if the family will be able to claim criminal injuries compensation, as the intended impact of CCAs is that no crime has been committed.

39. This is especially concerning given the range of public authorities empowered by draft clause 2 of the Bill to grant such authorisations, which seems unnecessarily broad for the purposes of the Bill. In light of their institutional position and competencies, these

authorities cannot be expected to conduct full and comprehensive necessity and proportionality assessments without contemporaneous independent judicial oversight.

40. The intention of the Bill is therefore to 'legalise' criminal offences with the purpose and effect that such authorised crimes cannot be subject to investigation and prosecutorial processes, by virtue of ceasing to be criminal offences. Independent decision making by Prosecutors on public interest grounds will no longer take place in circumstances where the evidential test cannot be met. In essence far from putting "existing practice on a clear and consistent statutory footing", as is claimed in the Explanatory Notes,[27] the Bill as introduced would dramatically erode the separation of powers and deprive independent prosecutors of their ability to prosecute serious criminal conduct where it is in the public interest to do so.

41. This goes significantly further than regimes of two of UK's closest 'Five Eyes' intelligence partners. For example, Canada's intelligence service can only use their authorisation process to give agents a defence to prosecution, rather than any blanket immunity.[28] Even the FBI, which can issue immunity from prosecution, can only do so where the activity is authorised within the express limits set out in its guidance – again demonstrating the importance of clear limits on conduct.[29] Where informants are to become involved in the most serious crimes permitted, the FBI also requires federal prosecutors to sign-off on authorisations.[30]

42. Beyond the broader questions of separation of powers in a democratic society, the independence of decision making by the Director of Public Prosecutions (DPP) has in particular been a cornerstone of the justice reforms of the Northern Ireland peace process. Prior to this there were controversial Executive interventions in decisions not to prosecute State actors. In this context the Criminal Justice Review that flowed from the Belfast/Good Friday Agreement recommended that legislation should "confirm the independence of the prosecutor"[31] Superintendence of the DPP by the Attorney General was removed and prosecutorial decisions are made independently by the DPP on the basis of the statutory Code for Prosecutors. As alluded to above the same problem occurs in relation to the police investigative stage. In essence this risks in the Northern Ireland context a return to the practices of the 1980s where the MI5 led-Walker Report led to the restructuring of the RUC and a system of Special Branch primacy, whereby arrests and charges of suspects by detectives were subject to Special Branch approval to provide a power of veto over CHIS arrests.[32] The reforms to policing, including those driven by the Pattern Commission and Police Ombudsman reports have led to significant reforms. This Bill however threatens to reverse reforms of the peace process in one of the most controversial areas of policing and prosecutorial policy.

43. Scotland also has maintained for hundreds of years an independent criminal justice system, which risks being bypassed by the authorisation process in the Bill.

Weaker oversight on serious crimes than search warrants or phone tapping

44. The Bill includes no system of warrants or independent judicial approval for the authorisation of crimes, meaning crimes by agents would be subject to even weaker oversight than phone tapping or searches by law enforcement. Nor is there even a requirement for approval by the Attorney General or Secretary of State before serious criminality is authorised. Authorisation is granted, for any crime of any severity, internally.

45. Survivors of sexual assault by police officers in the 'Spy Cops' cases have rightly sought legal redress for the abuses they suffered. But this bill would mean these claims could never be brought, since it would bar civil action for authorised activity. There are also serious concerns that the Bill appears also to bar victims from seeking compensation under the Criminal Injuries Compensation Scheme.[33]

46. The only oversight the Bill proposes is for the Investigatory Powers Commissioner (IPC) to "in particular, keep under review" the use of these powers in its regular Annual Report, reviewing serious crimes long after they have taken place. Published sometimes two years thereafter, the Annual Report is likely to contain only limited public information, if at all. Such information may be reserved to the confidential Annex to the Annual report, but there will be no way to confirm this. The IPC itself has raised serious concerns about the recording and reporting of MI5 involvement in crime, finding in his last annual report that "MI5 lack reliable central records around [participation in crime] activity and that there is no consistent review process."[34]

47. Once more, the oversight powers in the Bill are far weaker than those operated by the UK's intelligence partners. The FBI has repeatedly released details of the number of crimes committed by its agents as part of efforts to increase transparency over the use of this power.[35] Canada's new legislation requires details of the use of CHIS to be issued in an annual report, as this Bill does, but requires it to include not only the number of authorisations issued each year but also the nature of the acts committed – which this Bill does not.[36]

48. The Bill also falls far short of the Patten-commission recommended (but not yet implemented) Commissioner for Covert Law Enforcement for Northern Ireland, which was to be granted powers to ensure informants were only "being used within the law".[37]

In summary, we would urge significant amendments are made to the Bill:

1. **Introduce clear limits on the face of the legislation preventing the authorisation of crimes such as murder, torture, and sexual violence;**
2. **Create real-time, effective authorisation and oversight mechanisms to ensure that authorisations to commit crimes have at least as robust authorisation and oversight as search warrants or phone tapping, and effective arrangements for post-operational accountability;**
3. **Ensure the UK's prosecuting authorities can independently review crimes committed by CHIS, and remove the power for MI5 and other public authorities to brand crime 'lawful for all purposes'.**

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[1] https://services.parliament.uk/bills/2019-21/coverthumanintelligencesourcescriminalconduct.html
[2] https://privacyinternational.org/legal-action/third-direction-challenge; https://reprieve.org.uk/update/taking-legal-action-prime-ministers-secret-order-british-spies/
[3] https://www.csmonitor.com/USA/Justice/2013/0604/Whitey-Bulger-trial-and-the-FBI-How-have-rules-about-informants-changed
[4] https://laws-lois.justice.gc.ca/eng/acts/c-23/page-8.html#docCont
[5] Namely: (a) in the interests of national security; (b) for the purpose of preventing or detecting crime or of preventing disorder; or (c) in the interests of the economic well-being of the UK.
[6] The Guardian, MI5 policy 'gives agents legal immunity to commit serious crimes", 5 November 2019, available at: https://www.theguardian.com/uk-news/2019/nov/05/mi5-policy-gives-agents-legal-immunity-to-commit-serious-crimes. See also BBC Radio 4, Today Programme, 5 November 2019, available at: https://www.bbc.co.uk/programmes/m0009zbd.
[7] https://www.theguardian.com/uk/2012/dec/12/david-cameron-pat-finucane-murder
[8] The Rt HON.Sir Desmond de Silva, *The Report of the Patrick Finucane Review*, December 2012 (The stationary Office, London 2012), paragraphs 31, 32 and 24.226, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/246867/0802.pdf
[9] In relation to the Stevens Investigations see: https://www.theguardian.com/uk/2003/apr/17/northernireland.northernireland2
[10] https://www.met.police.uk/SysSiteAssets/foi-media/metropolitan-police/priorities_and_how_we_are_doing/corporate/operation-herne---report-2-allegations-of-peter-francis-operation-trinity
[11] Explanatory Notes, paragraph 14.
[12] As stated by Government at the public hearings in the 'Third Direction' case before the Investigatory Powers Tribunals 5-6 November 2019.
[13] https://fas.org/irp/world/uk/isc-detainee.pdf
[14] https://publications.parliament.uk/pa/bills/cbill/58-01/0188/CHIS%20(CC)%20Bill%20-%20ECHR%20Memo%20FINAL.pdf paragraph 16
[15] https://bit.ly/3dkdAcJ
[16] https://www.thetimes.co.uk/article/government-must-not-give-green-light-to-lawbreaking-fpp3kwrhz
[17] https://laws-lois.justice.gc.ca/eng/acts/c-23/page-8.html#docCont
[18] Hansard, 5 October 2020, column 708, The Solicitor General (Michael Ellis)
[19] https://www.csmonitor.com/USA/Justice/2013/0604/Whitey-Bulger-trial-and-the-FBI-How-have-rules-about-informants-changed
[20] https://www.publicaffairsbooks.com/titles/dick-lehr/blackmass/9781610391092/?utm_expid=.OyywKgKNQfKo0ZgN1WBZtg.0&utm_referrer=https%3A%2F%2Fwww.google.com%2F ; https://www.newyorker.com/magazine/2015/09/21/assets-and-liabilities
[21] https://fas.org/irp/agency/doj/fbi/chs-guidelines.pdf
[22] MI5 Guidelines on the use of Agents who participate in Criminality (March 2011), paragraph 3.
[23] MI5 Guidelines on the use of Agents who participate in Criminality (March 2011), paragraph 9.
[24] https://www.opkenova.co.uk/ "Former chief constable Jon Boutcher is leading an independent team to conduct the investigation into a range of activities surrounding an alleged individual codenamed Stakeknife. Many are concerned at the involvement of this alleged State agent in kidnap, torture and murder by the Provisional IRA during 'the troubles' and believe they were preventable."
[25] Correspondence from Michael Agnew, Deputy DPP, Public Prosecution Service to CAJ, 8 Feb 2019.
[26] Explanatory Notes: Covert Human Intelligence Sources (Criminal Conduct) Bill as introduced in the House of Commons on 24 September 2020 (Bill 188), paragraph 23.
[27] As above, paragraph 2.
[28] https://laws-lois.justice.gc.ca/eng/acts/c-23/page-8.html#docCont
[29] https://fas.org/irp/agency/doj/fbi/chs-guidelines.pdf
[30] https://fas.org/irp/agency/doj/fbi/chs-guidelines.pdf
[31] Review of the Criminal Justice System in Northern Ireland. HMSO. March 2000 Para. 4.162-3 see also https://www.legislation.gov.uk/ukpga/2002/26/section/42
[32] https://www.theguardian.com/uk-news/2018/jun/26/special-branch-ruc-put-evidence-before-arrest-walker-mi5-report-northern-ireland
[33] https://twitter.com/thebrieftweet/status/1309513260379631617
[34] https://ipco.org.uk/docs/IPCO%20Annual%20Report%202018%20final.pdf
[35] https://www.newyorker.com/magazine/2015/09/21/assets-and-liabilities ; https://www.dailydot.com/irl/fbi-informants-otherwise-criminal-activity-report-foia/
[36] https://laws-lois.justice.gc.ca/eng/acts/c-23/page-8.html#docCont
[37] 'A New Beginning: Policing in Northern Ireland', The Report of the Independent Commission on Policing in Northern Ireland', September 1999 (Patten Report) para. 6.44. "A *Commissioner for Covert Law Enforcement in Northern Ireland* – a senior judicial figure with a remit to oversee surveillance, use of informants and undercover operations; with powers to inspect the police and other agencies acting in their support and compel disclosure of documents; responding to direct representations or referrals from the Police Ombudsman or Policing Board, and powers to act on their own initiative to ascertain if covert policing was being used within the law and only when necessary;"