

26 Nov 1982

Jim, ER

John McMahon signed off
on these letters this morning
before copies were made. These
are your copies.

Michelle

Central Intelligence Agency



Washington, D.C. 20505

OEXA 82-2630/b

2 DEC 1982

82-70554

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82-130391

Honorable Benjamin A. Gilman
House of Representatives
Washington, D.C. 20515

Dear Mr. Gilman:

This is in response to your letter of 12 November 1982 expressing concern over the recent acquittal of five individuals indicted for running guns to Northern Ireland in United States v. Falvey et al. The five individuals spuriously claimed in their defense that they were somehow acting for the Central Intelligence Agency.

I can assure you that the defendants' claims in this case of CIA complicity with their activities were utterly untrue. As you know, in preparation for this trial the CIA, at the request of the Justice Department, conducted an exhaustive search of its records, which reflected absolutely no CIA involvement of any kind with the alleged criminal activities of the defendants. A CIA witness presented these facts in sworn testimony at trial and sworn certificates of no record were entered into evidence. According to press accounts, at least a few members of the jury were not persuaded that CIA had absolutely nothing to do with the case.

We too are concerned that miscarriages of justice can result from spurious claims by criminal defendants that they were secretly working for the CIA at the time of their alleged criminal activity. In this regard, you may be interested to know that we have been considering ways to ameliorate this problem, and that earlier this year we formulated a legislative proposal to amend the Federal Rules of Criminal Procedure to require defendants to give pretrial notice to the government if they intend to claim that they were acting on behalf of a federal instrumentality at the time of the alleged crime. This would give the government the opportunity to conduct records searches and to prepare witnesses to rebut effectively any spurious defense claim that the defendant was carrying out some secret mission. As you know, pretrial notification requirements of this kind already exist for the defenses of alibi and insanity. Our proposal currently is being examined by the Department of Justice.

We appreciate very much your interest in this matter. I hope that we can find a solution to the problem of false claims by criminal defendants of secret CIA involvement in their activities. Ultimately, of course, we must rely on the inherent institutional strengths of the criminal justice system.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence



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