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CONFIDENTIALPaul Hill: Northern Ireland ImplicationsAppeal Court Hearing

1. The Department arranged to have an observer at the hearing in the Northern Ireland Appeal Court this afternoon. Lord Justice O'Donnell, sitting with Lord Justice McDermott and Judge Nicholson, gave leave for an appeal out-of-time and granted bail at £100 with two independent sureties of £2000 pending the hearing. No restrictions were imposed and the Court expressed no objection to Hill's travelling to London for medical treatment. (Bail is unusual on appeal of a conviction for murder but has been given in other cases, notably the supergrass appeals. The Crown (Mr Appleton) said it was "neutral" on the issue; when pressed by Lord Justice O'Donnell, it agreed it did not oppose bail.) Hill's lawyers (Lord Gifford and Mr Barry MacDonald) were required to give their grounds for appeal within two weeks. The Court accepted, however, that further grounds could be presented later in light especially of the criminal investigation into the actions of the Surrey police in the Guildford case.

Shaw Case

2. Hill's appeal is against his conviction for murder of a former soldier, Brian Shaw, in Belfast in 1974. At his trial in Belfast in 1975, Hill denied the charge (but it does appear that he participated in the abduction of Shaw prior to his murder and that he was involved in the IRA at the time).
3. No other person is in prison for Shaw's murder. Two persons were tried with Hill; one, Monaghan, was given three years for membership; another, Young, was acquitted. A third person, Skillen, a close friend of Hill's who held a gun during Shaw's abduction, was killed shortly after Shaw's murder.

4. Hill's conviction appears to have rested solely on a confession obtained by the RUC in the presence of the Surrey police after less than an hour's questioning and on evidence given by the Surrey police at his trial. In these circumstances, it is possible that the Northern DPP will take a leaf out of the book of his counterpart in London and decide not to contest the appeal which, following a conversation with Hill's lawyers today, the Department's observer reports is being prepared on the following lines

Hill's confession was obtained under duress and after a prolonged period of physical and psychological abuse at the hands of the Surrey police;

the presence of the Surrey police at the RUC interview was oppressive; and

the trial judge (Kelly) had relied on the integrity of the Surrey police which has now been shattered.

Hill does not appear to have alleged physical mistreatment against the RUC but he has stated that he was threatened at both the RUC and Surrey police interviews that his girlfriend, Gina Clark, would be charged with the Guildford bombings if he did not himself confess.

Implications for the RUC

5. The spill-over from the controversy created in England is likely to focus attention on RUC malpractice in regard to confession evidence and the need for greater safeguards for persons in custody in the North. The case of the "UDR Four", who were allegedly fitted up for the murder of Adrian Carroll in Armagh in 1983, is likely to receive greater prominence (note: Fr Raymond Murray, who passed on evidence in the case to the RUC, told us earlier this year he had no doubt whatever of the men's guilt).
6. There is concern in legal circles about the current

behaviour of RUC interrogators at Castlereagh and Gough barracks and we are aware of a number of recent allegations of mistreatment in custody, one of which (Gillen) has been upheld in the High Court. We have been told of a loyalist case (Boyd) awaiting judgement in which evidence was given by the new ESDA technique - which brought the West Midlands CID to grief - showing that the RUC falsified confession evidence; and we have heard there are two other cases (details awaited) in which similar evidence has been given.

Action

7. The immediate point is that Paul Hill is no longer in prison and that both the appeal process and the life sentence review mechanism are in motion. One way or another, Paul Hill is unlikely to see prison again. It is clear, however, that there should be a thorough enquiry under the auspices of the DPP into RUC actions in the Shaw case and we are asking for confirmation that this is taking place. It is highly relevant that the recent discoveries by the Avon and Somerset police appear to have occurred only this year, after the referral of the case to the Court of Appeal and after specific directions to the police by the Crown Prosecution Service (DPP). They do not appear to have been noted in reports to the Home Office although the relevant material was in Avon and Somerset police custody from the start of their investigation in 1987.
8. The Department also proposes to raise general issues which now arise again, especially the question of safeguards for persons in custody on suspicion of scheduled (terrorist) offences in the North. Much has been made in Britain of the custody safeguards introduced in the Police and Criminal Evidence Act 1984, although one of the more obvious safeguards - taperecording - has not been applied to interviews of persons detained under the PTA. Equivalent legislation has only recently been introduced in the North in the Police and Criminal Evidence (NI) Order 1989 but

unlike the British legislation it does not apply at all to persons detained under emergency provisions (PTA).

9. In observations presented to the British in the Secretariat, we formally proposed that this Order should extend to the exercise of emergency powers and we stated our strong view that tape-recording should apply to all interviews. We have also pressed the British side to consider video-taping in light of the apparent inadequacy of closed-circuit television monitoring and to provide more immediate access to legal advice (at present this right can be withheld for up to 48 hours). We intend to remind the British of these proposals in light of the discovery of police malpractice in the Guildford case and to discuss the further implications for current and proposed safeguards for persons in custody.
10. A non-statutory "Guide" to the exercise of emergency powers is expected to be issued shortly. This will be welcome as the first comprehensive statement of citizens' rights and police powers in relation to arrest, detention, questioning etc. It will have to rely for enforcement, however, on the extent to which its provisions are reflected in police regulations (which are not published) and we have expressed the view, therefore, that it should be placed on a statutory basis.
11. We expect to have an opportunity to raise these matters as they concern Britain and Northern Ireland with the reviewer of emergency legislation, Lord Colville, in the near future.

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Declan O' Donovan
20 October 1989

cc: PSM/PSS ✓
Mr Gallagher ✓
Counsellors ✓
4

Mr Nally/Dr Mansergh ✓
Mr Brosnan ✓
Mr Russell, AGO ✓

A-I Secretariat ✓
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