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Inquest on Seamus Duffy

I received a phone call yesterday evening from Clara Reilly of the United Campaign Against Plastic Bullets (UCAPB) informing me that the Inquest is to be held on Monday and asking whether the Government would be sending an observer to the Inquest. I received a further phone call this morning from Paul Cassidy (an uncle of Seamus Duffy who lives in Dublin) asking the same question.

In response to both phone calls I said that I had not realised that the Inquest was to be held so soon and that, given the short notice involved, I didn't think that we would be in a position to have anyone available in Belfast next Monday. However, I added that while we might not be able to be actually present at the Inquest hearing, I assured both callers that we would be taking a particular interest in the Inquest proceedings.

In the past we have been officially represented at

- The Inquest of the Gibraltar Three.
- A number of extradition cases, where a Northern Ireland lawyer attended the subsequent trial in the Northern Ireland Courts of those extradited.
- The Appeal Hearing in the Northern Ireland Courts in respect of Paul Hill, following his release from prison in Britain.
- The Appeal Court hearing on the Birmingham 6.
- The May Inquiry


Comment:

The Duffy case is certainly one which arouses sympathy and which again raises our longstanding concerns about the control exercised over the firing of plastic bullets by members of the security forces in Northern Ireland. It can be argued that sending an observer to the Inquest would be a visible sign of our concern on this issue. [In this regard, there is a proposal for the Minister to meet with the UCAPB to discuss the issue sometime in early July.]

However, attendance on this occasion may create a precedent in that it may well trigger similar requests in the future -eg: the Inquests into the 6 people killed in Armagh in 1982 (including the Inquest on Michael Tighe on which there has already been considerable correspondence); the Loughgall killings; the Drumnakilly killings; the Whiterock Road killings etc.

An additional aspect is that we have in the past expressed concern at the inadequacy of Inquest proceedings in Northern Ireland - an inadequacy which has been reinforced by the recent judgement of the House of Lords in the McKerr case. The result of that judgement is that those who fired the fatal shot are not obliged to attend the Inquest to give evidence. It could be argued that sending an observer would be investing an undeserved credibility in the Inquest proceedings in this case.

Recommended that
In all the circumstances, we should not be represented at the Inquest but, in response to any queries, we should continue to make it clear that we are of course following the proceedings very closely.


Brendan McMahon
Anglo-Irish Division
15 June 1990

cc Mr M. Collins (on return)

CONFIDENTIAL

Background Note

Plastic Bullets - Killing of Seamus Duffy

Background:

Following the killing in the early hours of 9 August, the Government expressed their deep concern and an immediate and detailed report on the incident was requested through the Secretariat.

The initial reaction from the British side, coupled with the RUC statement issued on the matter, betrayed considerable uncertainty as to how Duffy had been killed; where he had been shot; and as to who had shot him. We were informed that the Army had fired 4 rounds and the RUC 96 rounds during the disturbances in the New Lodge that night. Subsequent contact with the British side of the Secretariat has yielded little further information other than indications that the security forces may have a video showing Duffy involved in rioting (though it is unclear whether the same video shows him rioting at the time he was shot); and that the postmortem revealed that he had drink taken at the time of his death.

The Chief Constable appointed Detective Chief Superintendent Caskey as investigating officer and referred the investigation for supervision to the Independent Commission for Police Complaints (ICPC), which appointed its Vice Chairman, Brian Garrett, to supervise the investigation.

That investigation has now been completed and the ICPC have certified that the investigation has been properly conducted. The file was referred to the Director of Public Prosecutions who recently announced that no prosecutions would be instituted in respect of the death of Seamus Duffy.

Comments by the Duffy family:

The parents of Seamus Duffy and one of his uncles called to the Department on 9 April. They were not surprised at the decision of the DPP as they had little faith in any investigation into the RUC conducted by the RUC. [They commented that they had learnt of the DPP's decision on the BBC evening news and were bitter that the RUC had not had the good grace to at least inform them in advance of the outcome of the investigation.]

They now find themselves in the position that the RUC have conducted an investigation (which is confidential) and the DPP has made a decision not to prosecute (also confidential). They

felt that in light of the House of Lords Judgement on the McKerr Inquest, that any Inquest into their son's death will shed no light on the circumstances of his death as those members of the security forces involved can not be compelled to attend the Inquest.

In the circumstances they intend to pursue the matter by

- instituting a civil case against the Chief Constable.
- if possible, instituting a private criminal prosecution.
[NOTE: This is not a very promising course of action as under existing provisions, in order to preclude malicious or spurious private criminal prosecutions, the DPP is empowered to take over any such private prosecution if he considers this appropriate, and to terminate the prosecution.]

Their ultimate intention is to take the case to Strasbourg and in this, they will have the support of the United Campaign Against Plastic Bullets (UCAPB). [NOTE: An earlier case involving the killing of Brian Stewart failed in Strasbourg in 1984, but neither the Duffy's nor the UCAPB appear to have been deterred by this precedent.]

Follow-up in the Secretariat:

We have asked a number of questions in the Secretariat regarding the outcome of this case -viz-

- Did the investigation reach a conclusion on (a) where precisely the incident took place; (b) the circumstances immediately preceding the firing of the fatal shot; and (c) which member of the security forces actually fired the fatal shot?
- Was there a fault with the plastic bullet gun used in the incident and is it the case that new equipment is likely to be issued in the near future?
- Whether the ICPC offered any comments on either the incident itself, or on the overall question of the control over the use of plastic bullets by members of the security forces.
- Whether there will be disciplinary proceedings against any RUC officers.
- When the Inquest is likely to be held.
- When will compensation be paid in this case.
- Whether, based on this investigation, the security forces have drawn any useful lessons regarding the procedures governing the use of plastic bullets.

Comment:

Overall, the Duffy case again raises two important issues

- The absence of any transparent means by which the public can be satisfied that members of the security forces can be held accountable for their actions.
- Plastic bullets and the controls exercised over their use in Northern Ireland.

Brendan McMahon
Anglo/Irish Division
17 April 1990