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AI Index: EUR 45/041/2000    1 April 2000

## UNITED KINGDOM:

### Questions remain after the Inquest into the Death of Diarmuid O'Neill

"I don't admit that anything went wrong – somebody has died, yes, but nothing went wrong." *Senior Police Officer, SO19*

#### Introduction

During a police raid on 23 September 1996 unarmed Diarmuid O'Neill was shot and killed in a hotel in west London by officers of the Metropolitan Police Specialist Firearms Branch (SO19). On suspicion of involvement in the Irish Republican Army (IRA) bombing campaigns of the same year, Diarmuid O'Neill was one of a group of individuals who were put under intensive police surveillance during the six weeks preceding his death. The observation, carried out by the Metropolitan Police's Anti-Terrorist Branch (SO13), was part of an operation to arrest Diarmuid O'Neill and others. A subsequent investigation into the circumstances surrounding the killing was supervised by the Police Complaints Authority (PCA) and conducted by the Criminal Investigation Bureau of the Metropolitan Police. After almost two years of investigating, however, in April 1999 it concluded with a report which led the Crown Prosecution Service to decide that there was not enough evidence to prosecute the police officers involved in the killing.(1)

In October 1999, Hammersmith Coroner Dr John Burton asked the Home Office to set up a public inquiry into the death of Diarmuid O'Neill. When his request was rejected, he proceeded to hold a Coroner's Inquest into the death.(2)

The inquest commenced on 31 January and resulted in a verdict, which in effect amounted to a 'lawful killing' verdict, by the Coroner's jury on 18 February 2000. The South Western Coroners Court chaired by Dr John Burton was sitting at Kingston Crown Court. According to official sources, security requirements had made the change of location from Hammersmith in west London to Kingston, which lies outside London, necessary.

#### The Preparatory Stages

The raid was part of an operation called 'Tinnitus' which started on 11 August 1996. It was preceded by a massive surveillance operation during which the suspects were observed by police officers for 24 hours every day – with some rare exceptions – for six weeks. Additionally, bugging devices were placed in a hotel room where two of the suspects were lodging during this period and in one of the vehicles used by the suspects.(3) Several covert searches of premises frequented by the suspects were conducted; the hotel room itself was searched on at least two occasions. The police did not find any explosives or weaponry in the room during any of the entries, but stated that they still could not be perfectly sure whether such items were available to the suspects at the time of the raid partly because they were not able to enter an adjacent storage room.

On 19 September 1996, a search in a storage facility in north London that had been rented by the suspects revealed a substantial amount of explosives, detonators and high velocity weapons including ammunition. (4) The police rendered the weapons useless and replaced the detonators with inert models.

After the discovery of explosives at the storage facility initial plans for the arrest of the suspects were amended. This led to three follow-up strategies, all of which involved SO19, thus necessitating a minimum of 40 firearms officers to be on stand-by in shifts. (5) The decision to arrest the suspects in the hotel room was made on 22 September when the police realised that Diarmuid O'Neill, who usually stayed at his home in Fulham, planned to spend the night at the hotel with two others. Police suspected that the three alleged members of an IRA Active Service Unit (ASU) would be holding a meeting to discuss an imminent operation. A plan for an armed entry had existed for several weeks.

A first briefing for SO19 officers for the raid was held at 9:00 pm on 22 September. The officers were supplied with information concerning the premises and the suspects, a replica key to enter the hotel room and a practice lock. The initial plan did not include the use of irritants of any form and was relying on the replica key to get into the premises before the suspects were aware of the presence of the police, making the element of surprise pivotal to the smooth functioning of the operation. However, due to wrongly interpreted audio evidence gathered by a bugging device, most of the armed officers were led to believe that the suspects were in possession of weaponry in the hotel room and that they also had hand grenades available. (6) Although these interpretative mistakes had been discovered and were known by senior officers before the raid and the briefings, SO19 officers were not informed about this. Additionally, they were told that the suspects had been recorded while tampering with the floorboards of the room, possibly hiding firearms. (7) In this context the officers were warned that the suspects may possess high velocity weapons AK-47, although those found at the storage facility had firstly been made useless by the police and secondly had not been removed from the facility by the suspects after the search on 19 September. Moreover, it was admitted during the inquest that it had been impossible for the suspects to have entered the hotel with a weapon like an AK-47 during the surveillance period, as the vicinity of the premises was constantly observed. Also, due to the size of the weapon the attempt to bring one or more into the hotel building would have been obvious to the police officers.

The officers rehearsed for the raid after the briefing. The rehearsal focussed on the steps to be taken assuming that the replica key would work. However, the Metropolitan Police's electronic security and access control specialist, stated that the handle of the replica lock, with which the opening of the door to the hotel room was practised, turned in the opposite direction of the actual handle. Officers thus practised with a wrongly turning handle. Ignorant of the possible repercussions of this, senior officers did not work out contingency plans in case officers would not be able to open the door. At this stage it was only planned to use an enforcer should the suspects have barricaded the door with a chain lock or pieces of furniture.

Despite the fact that the use of it had been explicitly ruled out as an option for the raid, it was at about 12:00 am on 23 September that Officer 'Hotel', the leader of the team designated to enter the room, became aware that a specific CS irritant had been authorized by DCS Bunn, who was in overall charge of the operation, and was to be taken to the scene as a contingency. (8) It had been decided that ten RIP (Rounds Irritant Personnel) rounds would be taken to the raid, which was the recommended maximum amount to be deployed in confined areas. (9) These had to be borrowed from the City of London Police. SO19 officers had never used or even been trained with live RIP rounds before. Moreover, it emerged at the inquest that none of the officers was clear about the effect of CS in its micronised form and that the irritant had not been subjected to appropriate tests. Despite this, specific strategies were not developed to deal with the possible consequences of firing RIP rounds for the SO19 officers.

As the police assumed the suspects to be armed, the decision to use irritants was not in accordance with the Association of Chief Police Officers' (ACPO) guidelines at that time which disapproved of the use of CS gas against anyone who is in possession of firearms. Moreover, the guidelines strongly advised that police officers involved in the use of CS gas during an operation must wear respirators and full head gear. The presence of medical staff was obligatory. (10) Contrary to these guidelines "it had been left as a voluntary matter as to whether individuals chose to bring gas masks or not" (AI Index: EUR 45/14/00).

Regarding the preparation of the officers, Amnesty International is concerned that armed officers entered an operation with wrong information and with equipment which they had not been trained with although the raid was preceded by a lengthy period of surveillance and planning. The officers were not prepared for any contingency measures to be taken should the initial plan of entry be unsuccessful.

### **The Raid**

On 23 September 1996 at 4:30 am SO19 arrived at the hotel in west London. Two teams were formed, of which one was responsible for gaining access to the room and arresting the suspects. It consisted of Officers 'Alpha', 'Delta', 'Gulf', 'Hotel', 'Kilo', 'Lima', 'Mike', 'November' and 'Oscar', most of whom did not bring their respirators to the scene and none of whom was wearing one when the raid started. The other team was positioned outside the premises, with tasks ranging from making distracting noises whilst the door to the

room was being opened to providing an alternative location from which RIP rounds could be fired should the situation require this. When the key failed to unlock the door the option of withdrawal was not taken into consideration and the main objective remained to get access to the room.(11)

The decision was taken to make use of the enforcer and the RIP rounds. An order was given to fire five rounds through a side window as a distraction whilst Officer 'Alpha' attempted to smash down the door with the enforcer. The deployment of RIP rounds, by shotguns from outside the premises, induced additional tension and confusion into the situation and led officers in the lobby to mistake these shots as coming from within the room. Although it was known that both teams were equipped with RIP rounds, Officer 'Delta' – a member of the entry team – also discharged five RIP rounds into the room.(12) The enforcer only punched a hole into the door.

Metropolitan Police training procedures and guidelines state that before officers discharge firearms they have to indicate that they are armed. Thus, by the time the RIP rounds were fired into the room, officers should have given this warning to the suspects. Although several officers claimed at the inquest that they had heard such shouts by other police officers – either inside or outside the building, the claims could not be substantiated unambiguously by the recording of the events. At most, audio experts allowed for the possibility that these warnings were shouted whilst RIP rounds were being fired, but there was clearly no indication of them prior to this.

Officer 'Delta', who fired the RIP rounds through the door into the room from the lobby, furthermore stated that he had aimed upwards according to the rules. Contrary to his recollections, however, four holes in the door indicate a horizontal direction of penetration. Given that he fired horizontally, some injuries sustained by Diarmuid O'Neill "[...] could be the result by the impact of CS gas rounds against the back of the deceased".(13)

The spreading CS gas not only affected the suspects inside the room but also had a devastating effect on the police officers in front of the door as it had seeped out through the holes caused by the enforcer.(14) The contamination of the lobby outside the room was such as to force most of the officers to leave the scene to be sick outside. Officer 'Kilo' stated he had difficulties breathing, was choking and his eyes were streaming. Only Officers 'Oscar', 'Lima' and 'Kilo' withdrew to an adjacent corridor to get some air before returning. 'Hotel', the officer in charge of the operation, remained outside until he heard shots being fired in the building. It was established at the inquest that after Officer 'Hotel' left the premises due to the effect of the CS gas Officer 'Kilo' was by default the only decision maker.

Only Officers 'Kilo', 'Lima' and 'Mike' initially returned to their position in front of the door to continue with the arrest. Although it is evident, from the recording of the incident, that the suspects inside indicated their surrender immediately after the discharge of the RIP rounds, the officers remaining in the proximity of the room stated that they increasingly feared being fired at. The officers perceived their commands – which are contradictory in themselves as the recording shows – as not being responded to by the suspects.(15) In this context it should be noted that the officers who had been positioned outside the room claimed that they had not heard the suspects' replies to their shouted instructions, despite the fact that they were within a few feet of the door which by that time had several holes of varying sizes in it.

As two of the suspects lay face down on the floor and the third suspect, namely Diarmuid O'Neill, responded to the officers' request to open the door the accounts of different officers of what happened next diverge.(16) Officer 'Mike' claims to have seen Diarmuid O'Neill display one of his hands through the hole in the door, whilst others did not recollect this. Although a change of the timbre of the police officer's voices on the recording can, according to an audio expert, be interpreted as the door being opened twice, the statements of officers are contradictory regarding this matter.(17) It can, however, be taken as an established fact that for some reason – reportedly because it had been battered and broken by the enforcer – Diarmuid O'Neill was unable to open the door fully.

Officer 'Mike' stated that he saw Officer 'Kilo' kicking the door open before the shooting, whereas 'Kilo' himself did not recollect having done so. Conversely, he stated that he remained across the lobby, several feet away from the door, during the time he was discharging his weapon. According to him, the door was open as he fired. He remembered running to the door and pushing Diarmuid O'Neill backwards after he had fired the second bursts of shots, which conflicts with the evidence of the pathologist who stated that when the last shot was fired, Diarmuid O'Neill was already collapsing backwards.

Officer 'Kilo' stated that immediately before he fired at Diarmuid O'Neill, he saw him displaying an "aggressive body language", standing in a "classic boxers stance with his arms down", which suggested to Officer 'Kilo' that "he was holding a weapon". On the other hand, he and other officers stated that it was very hard to see, because their visual perception was impaired by a cloud of CS gas. Officer 'Kilo' also claimed that Diarmuid O'Neill was not complying with his orders and stayed stationary throughout the rounds of fire. Officer 'Kilo's' claim to have been in a position to determine a threat from the silhouette he saw is challenged by the fact that he was neither able to determine whether the person was dressed or not at

the time and by forensic evidence which showed that Diarmuid O'Neill had in fact moved.(18)

Officer 'Kilo' also continued maintaining that he had fired three pairs of shots as firearms officers are generally taught to do. Conversely, the recording clearly indicates that only two bursts of shots were discharged and furthermore forensic evidence suggests that of the six rounds discharged in total, three were fired at a time. The first three bullets entered Diarmuid O'Neill's body through the right flank, whilst the latter three hit him in the lower abdomen; thus the forensic evidence supports the recorded evidence.

After the shots had been discharged first Officer 'Kilo', then Officer 'Lima' and then others, who had returned from outside the building, entered the room. They remembered Diarmuid O'Neill lying bare-chested across a bed close to the door. According to the paramedic Diarmuid O'Neill was wearing a shirt with three holes in it as he was receiving treatment outside the premises.

Officer 'Hotel', who by that time had returned from outside, removed Officer 'Kilo' from the premises about a minute after the shooting as he was suffering heavily from the effects of the CS gas. The room was secured and searched by others and after several minutes Diarmuid O'Neill was brought outside by three officers.

Amnesty International's concerns expressed in previous documents regarding the denial of appropriate medical care to Diarmuid O'Neill after the shooting were refuted by evidence given by the abovementioned paramedic.(19) However, video evidence shown during the inquest revealed that, while Diarmuid O'Neill's body was being carried out of the premises, he was dropped by one of the officers carrying him. Several officers acknowledged that his body had been colliding with the stairs leading away from the premises. This is consistent with findings of the post-mortem examination and also supported by blood smears which were found on the stairs and on the pavement in the entrance area.(20) There is also evidence of the body being dragged with the head being "in contact with the stairs".

The origin of a patterned bruise on Diarmuid O'Neill's head, which according to Dr Iain West could have resulted from "an individual treading on his head", could not be determined during the inquest as none of the police officers remembered any action which could have led to it.

Exclamations recorded by the bugging device before the bursts of shots also generated some concerns.(21) However, the inquest did not succeed in eliminating the ambiguity regarding their interpretation. Although Scotland Yard's audio forensic expert ruled out the police's claim that an exclamation recorded during the raid was a command to "Shut the fuck up!", he still could not ascertain whether it was a command to kill ("Shoot the fucker!") or to shut up ("Stupid fucker!"). Furthermore, none of the officers admitted to having shouted the words in question, which are recorded at least twice.

#### **4. The Inquest**

During the inquest at Kingston Crown Court Diarmuid O'Neill's family was represented by Michael Mansfield QC.(22) Michael Wood QC was acting on behalf of the Metropolitan Police force. SO19 Officer 'Kilo', who discharged the fatal shots, was represented separately. Witnesses called to give evidence included senior officers of the Metropolitan Police / Scotland Yard (amongst others: DCS Bunn, Commander of the anti-terrorist branch SO13 at the time and in overall charge of the operation; DCI Michael Jones, from SO13; DC Waldron, tactical adviser to SO19; DI Mark Williams, chief of SO19; and the chief instructor of the Metropolitan Police firearms branch and training manager of SO19), the firearms officers involved in the raid (officers code-named 'Hotel', the sergeant in charge of the raid; 'Echo', 'Bravo', 'Papa', 'Quebec', 'Delta', 'Golf', 'Foxtrot', 'India', 'Alpha', 'Charlie', 'Juliet', 'Oscar', 'Lima', 'Mike', 'November' and 'Kilo') and expert witnesses (most importantly: Dr Iain West, the pathologist; a speech analyst; an audio forensic expert).(23)

After the Coroner's summation of the three weeks of questioning, the jury, consisting of ten local men and women, issued the verdict.

##### *The Coroner's Summing Up*

Amnesty International is concerned about certain aspects of the Coroner's summing up. Discussing the repercussions of the verdict, Coroner Dr John Burton suggested that if the jury decided Diarmuid O'Neill had been unlawfully killed, it could make him a "martyr" and hence "justify the campaign". Conversely, if they ruled that he had been lawfully killed the verdict could "justify the conflict". Michael Mansfield QC objected that this direction had sown a seed in the jury's mind that their verdict could be misused and stated that the jury should be told that the repercussions of their verdict should not be included in their consideration. The Coroner refused Michael Mansfield's application as he felt the he had "erred in being unfair against the police".

After the verdict was given Coroner Dr John Burton expressed his uneasiness with how the inquest had been conducted and remarked, addressing Michael Mansfield's objections:

"There has been criticism of my remarks to the jury. I have been here for three weeks. I am

not proud of my conduct in this inquiry or the form of the inquiry itself. Mr Mansfield has said that we live in a democratic society and that people who volunteer to take risks must be prepared to answer for the consequences of their acts. He is right. This is a democratic society. That society has required the police officers to take risks on our behalf. We ask them to do it. I have subjected them to three weeks' sustained attack without the protection afforded by the criminal court, with no pretence of natural justice and there is nothing that I can do about it. The need to change the law to prevent this is, to me, overwhelming."(24)

Such a remark can lead to a misconception of the proceedings of the inquest by the public and gives the impression that actions by police officers who have been involved in a killing should not be subjected to rigorous scrutiny.

#### *The Verdict*

The jury found, by a majority verdict, that the police had used "reasonable force" and had therefore been acting in compliance with Section 3 of the Criminal Law Act 1967. This effectively means that the killing had been lawful. All jurors called for investigations into alternative designs for respiratory masks, and two recommended a review of the tactical use of CS gas by firearms officers.

#### *The Jury*

Although the jury was apparently selected along the lines prescribed by legislation, Amnesty International is concerned that the location of the inquest in Kingston prompted a composition of a jury which might not have reflected the views of the general public in west London.

### **Conclusion**

#### *Before the Inquest*

Amnesty International has previously expressed its concerns about the circumstances surrounding the death of Diarmuid O'Neill. On the basis of the information available prior to the inquest, Amnesty International was concerned about the circumstances in which Diarmuid O'Neill, an unarmed man, was shot dead while reportedly fully complying with police orders to surrender, the use of CS gas during the raid, the denial of vital medical care to severely injured Diarmuid O'Neill and about the misleading information given to the media. As the authorities failed to carry out an independent, prompt and impartial investigation into the full circumstances of the incident, Amnesty International urged them to initiate an independent and impartial inquiry.(25)

#### *After the Inquest*

Amnesty International believes that the authorities failed to carry out an independent, prompt and impartial investigation into the full circumstances of the incident.

In addition, the inquest failed to allay Amnesty International's concerns as serious issues surrounding the circumstances of Diarmuid O'Neill's death remain unresolved. Amnesty International is thus concerned that the full facts of the killing of Diarmuid O'Neill remain unknown, given the inconsistencies between officers' accounts and forensic evidence.

Amnesty International's continuing concerns focus on the extent to which the inquest was unable to determine the truth; on revelations during the inquest concerning the use of CS gas; on the general planning of the operation including the rehearsal procedures; and on some aspects of the Coroner's summing up.

Although all of the police officers involved in the killing and their senior officers have been questioned in depth, there are still certain issues which remain undetermined. These include the evaluation of the recorded evidence; conflicting statements of police officers present during the raid; the origin of a patterned bruise on Diarmuid O'Neill's head; the treatment of severely injured Diarmuid O'Neill while being carried to the outside of the premises; the use of CS gas in confined areas during armed raids; and the preparation of firearms officers for the raid in general. Within the context of the planning and preparation of the operation Amnesty International is concerned that SO19 officers were given incorrect information which created an atmosphere of greater fear.

Furthermore, Amnesty International is concerned at the statement of the senior police officer in charge of the operation (DCS Bunn) who thought that there was nothing to learn from the case and stated that he "would not do things differently" in a similar situation.

#### *Vagueness of UK Law And Its Insufficiencies vis-à-vis International Standards*

Amnesty International is concerned about the wording the Criminal Law Act 1967 as it lacks clear, detailed rules strictly limiting and controlling the use of lethal force. Section 3 (1) states that

"a person may use such force as is reasonable in the circumstances in the prevention of

crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large".

Amnesty International believes that there is a discrepancy between the vagueness of UK legislation and international legal standards for preventing the arbitrary deprivation of an individual's basic right to life. Article 6 of the International Covenant on Civil and Political Rights guarantees the right to life. The United Kingdom Government, which has ratified the Covenant, is obliged to prevent arbitrary killings by its security forces. The Human Rights Committee, the body created by the Covenant to monitor the implementation of the Covenant's provisions by State Parties, stated in its general comment 6 (16) on Article 6:

"The deprivation of life by the authorities of the state is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities."

Article 2 (2) of the European Convention on Human Rights states:

"Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary: a) in defence of any person from unlawful violence; b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; c) in action lawfully taken for the purpose of quelling a riot or insurrection."

The Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in 1979, states in Article 3 that law officials "may use force only when strictly necessary and to the extent required for the performance of their duty". The commentary to this Article contains, *inter alia*, the following observations:

"The use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance to or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender. In every instance in which a firearm is discharged, a report should be made promptly to the competent authorities."

#### *Absence of Appropriate Fora To Consider Killings by Law Enforcement Officials*

Amnesty International is concerned about certain remarks of the Coroner. He expressed concerns that he had

"subjected [police officers] to three weeks' sustained attack without the protection afforded by the criminal court, with no pretence of natural justice [...]. The need to change the law to prevent this is [...] overwhelming".

Amnesty International acknowledges that the Coroner initially requested an inquiry into the incident. However, his expressed views reflect a failure by the authorities to provide a mechanism for a thorough and public examination of all the facts and of the lawfulness of actions by state agents. The need for such a mechanism is reflected in the judgment of the European Court of Human Rights in the case of *McCann et al v UK* (28 September 1995):

"A general legal prohibition of arbitrary killings by agents of the state would be ineffective, in practice, if there existed no procedure for reviewing the lawfulness of the use of lethal force by State authorities. The obligation to protect the right to life under this provision [...] requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force by, *inter alios*, agents of the State."

The European Court of Human Rights in the same case also commented on the need for a jury to take the planning of an operation into consideration when deciding on the lawfulness of a killing. In the judgment it

was stated that a

"Court must, in making its assessment, subject deprivations of life to the most careful scrutiny, particularly where deliberate lethal force is used, taking into consideration not only the actions of the agents of the State who actually administer the force but also all the surrounding circumstances including such matters as the planning and control of the actions under examination."

Given that the firearms officers involved in the killing of Diarmuid O'Neill were provided with wrong or insufficient information, Amnesty International is concerned that the inquest failed to consider adequately the responsibility of those planning the operation.

Amnesty International urges the government to implement international standards by carrying out an independent inquiry into all the circumstances of the killing and to publish a report on the findings.

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(1) This issue has been dealt with in more depth in AI Index: EUR 45/14/00.

(2) Cf. footnote 1

(3) It was revealed at the inquest that a red Volkswagen 'Jetta' – property of Diarmuid O'Neill – had been searched and bugged by the police. Bugging devices, placed in the hotel room by MI5 (the security services) during a covert search, recorded the raid and the circumstances leading to the shooting. It is questionable whether armed officers at the scene were aware that the events were being taped. The Home Office did not reveal the exact location of the devices for public interest reasons; however, given the relative levels of loudness of the voices of police officers and suspects it can be taken for granted that they were situated inside the room.

(4) At the 'Abacus' storage facility the police found 6.5 kg of *Semtex*, 17 detonators and several AK-47 high velocity weapons including ammunition.

(5) Plan A had been to arrest the suspects at the storage facility as they were trying to move the explosives or firearms. According to DCI Michael Jones the plan was abandoned because a shoot-out with the suspects could have resulted in the detonation of the explosives if they were hit by a high velocity round. Plan B was a follow-up strategy to plan A. It included the arrest of the suspects before they were able to reach the stored explosives or firearms. Plan C was to simultaneously arrest the suspects at their home addresses.

(6) The sound of a can being opened was first interpreted as a gun being racked. The misleading reference to hand grenades was based on the suspects' mention of the underground station 'Hanger Lane'.

(7) A briefing document stated that "it is assessed that the ASU members will make every attempt to escape [...] and will not hesitate to use firearms".

(8) During cross-examination, DCI Mark Williams stated that "at 8 pm officers at Old Street were told that CS gas was not an option" as the permission for its use had been refused. Officer 'Delta' confirmed this by saying that he was told at the 9:00 pm briefing that a request for CS gas had been refused. DCS Bunn acknowledged that he had not been trained in its use and was unaware of the different types of gas.

(9) CS RIP is a barricade penetrating device. It had never been used in London before and tests were still being conducted on this more concentrated form of CS gas. The 1996 ACPO guidelines state that ten is the maximum amount of CS gas canisters which can be used in confined areas. The RIP rounds were fired with Remington shotguns, the usual type of shotgun used by SO19. DCI Williams stated that the amount used was calculated from a description of the room, but conceded that calculations would not have been valid because he did not know the concentration of the gas.

(10) The new ACPO guidelines only recommend the abovementioned precautions.

(11) At the inquest several officers stated that the situation could have allowed for a 'contain and contact' strategy. The assumption of the availability of explosives or firearms to the suspects reinforced the intention to enter the room as soon as possible, thereby minimizing the amount of time available to the suspects to make use of them. A 'contain and contact' strategy is to hold a position and try to address suspects to talk them out of inaccessible premises, rather than to apply force to achieve the goal of arrest.

(12) Two officers were equipped with RIP rounds and Remington shotguns for the raid. One of them, Officer 'Foxtrot' was positioned at a side window of the hotel room, whilst Officer 'Delta' was at the door.

(13) The post-mortem examination was conducted by Dr Iain Eric West at Guy's Hospital, London. The quote is taken from his report which was written on 25 September 1996.

(14) The product details of the company supplying the rounds states: "One round fired at point blank range can punch a hole through a door and fill a room 9mx6m instantly with CSM gas, causing the space to become a no-go, no-stay area. The concentration of CSM would be sufficient to disable instantly even the most determined and hardened occupants."

(15) Some of the following commands were shouted in a very brief period of time – or even sequentially – by different officers: "Get on the floor!", "Come to the fucking door now!", "Open that door now!", "Show me your hands now!".

(16) In fact, Officer 'Kilo's' evidence was totally inconsistent with Officer 'Mike's' account of the incident and furthermore incompatible with the audio evidence.

(17) Another inconsistency arises as Officer 'Mike's' claim to have shouted – "at the top of his voice" –

“There is a man at the back, he’s kneeling down!” shortly before the door was opened could not be substantiated by the recorded evidence during the inquest. Officer ‘Kilo’ and three other officers, who claimed to have heard it, stated in their notes written shortly after the raid and at the inquest that they had concluded from ‘Mike’s’ alleged exclamation that the suspects were retrieving firearms from underneath the floorboards, which increased their fear of a threat from inside. However, other shouts by the officers could be heard on the recorded evidence.

(18) According to the forensic evidence, the figure must have moved after the second burst of shots was fired. As described above, the rounds hit Diarmuid O’Neill in such a manner that he must have moved after the first burst of shots was fired. In his conclusion to the report on the post-mortem examination Dr Iain West writes:

“[...] three bullets had been fired from a direction which indicated that the discharge of the weapon has taken place when the deceased was collapsing onto his back. The angles of the bullet tracks of the wounds in the upper abdomen are very similar suggesting that both discharges occurred within a very short period of time.”

(19) The paramedic firstly stated that in circumstances where casualties have to be rescued from areas contaminated with irritants medical personnel is usually not expected to enter these areas. Police officers are trained to transport injured individuals into safer areas in which treatment can be given without possible impairment of the medical personnel involved. He secondly said that the medical condition in which he found Diarmuid O’Neill would not have allowed transport to a hospital without prior attempts to stabilise it. (20) Dr Iain West found that “[t]he injuries on the deceased’s back are of a relatively unusual pattern. Some of the injury appears to have resulted from the deceased being dragged across the floor and ground when he was removed from the premises.”

(21) Cf. AI Index: EUR 45/14/00, p. 3

(22) Present UK legislation does not make provisions for financial help in cases that are subjected to inquests. However, Amnesty International believes that the families of victims of killings by law enforcement officials should be granted legal aid.

(23) The SO19 officers involved in the raid gave evidence from behind a screen to protect their identities.

(24) *The Irish News*, 19 February 2000; *The Guardian*, 19 February 2000 (from “This is a democratic society....”)

(25) News Service 170/96, 26 September 1996: “*United Kingdom: Killing of Diarmuid O’Neill Raises Serious Questions*” (AI Index: EUR 45/12/96); Amnesty International document: “*United Kingdom: Killing of Diarmuid O’Neill*”, 30 September 1996 (AI Index: EUR 45/14/96). Most recently the issue was considered in “*United Kingdom: The Disputed Killing of Diarmuid O’Neill*”, January 2000 (AI Index: EUR 45/14/00).

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