

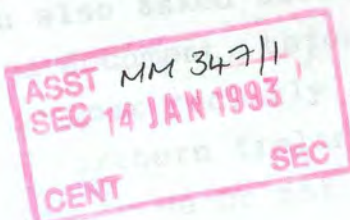
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PERRY
Security Policy and Operations Division 2
13 January 1993

cc PS/Secretary of State (B&L) - B
PS/Minister of State (B&L) - B
PS/PUS (B&L) - B
PS/Mr Fell - B
Mr Ledlie - B
Mr Steele - B
Mr Wood - B
Mr Leach
Mr Marsh
Mrs Collins
Mr Brooker - B
Mr Bojdys, HQNI
(w/o attachment)



Ms Murphy
396/1/5
for file
Date 13/1/93

Mr McCaffrey

McELWAIN INQUEST: VERDICT

You will have seen press coverage of yesterday's verdict in the McElwaine inquest, which stated that McElwaine had not been given the opportunity to surrender, and that he was killed some minutes after being wounded in the initial burst of firing.

2. The MOD are of course on the lead on this issue, and are still seeking details of the precise terms of the verdict. I attach, however, some interim lines to take. It is not yet known whether the DPP will formally re-examine the case in the light of the verdict: at the moment this seems unlikely, since as far as we are aware no evidence was presented to the inquest which was not available to the DPP when he considered the case originally. This should become clearer during the course of the day.

3. For the time being, therefore, our lines to take (for defensive use only) remain as before:

- the incident was fully investigated at the time by the police, and the (independent) DPP decided at that time that there should be no prosecution of the soldiers involved.

- Any review of that decision in the light of the inquest verdict is a matter for the DPP.

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[Inquest procedures] These are a matter for the Court Service and the Lord Chancellor's Office. As in England and Wales, inquests are fact-finding inquiries and not proxy trials.

4. You also asked about the Yellow Card. It is of course a classified document, though various versions of it have been published, most recently in the Helsinki Watch 1991 report on human rights in Northern Ireland (the relevant extract is attached for information). We do not discuss its detailed contents publicly: you will see from it, however, that a challenge before opening fire need not be issued if to do so would put the soldiers concerned at 'grave risk'. (26.11)

(Signed)

N P PERRY
Ext 2740

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