

Gen Sec 7/26/97

11A



P 136

Committee on the Administration of Justice  
45-47 Donegall Street, Belfast BT1 2FG  
Telephone (01232) 232394 Fax 246706  
International 44 1232 232394 Fax 246706

CI

P 136

CI

Mean 5/26

P 157

12/17/97

The material is Dr. Duffy.  
Section must be made  
of course that not the  
OBS will say in his reply.

Ronnie Flanagan  
Chief Constable  
Royal Ulster Constabulary  
RUC HQ  
Knock Road  
Belfast 5

21st November 1997

Dear Mr Flanagan,

The C.C. was pleased to meet with you on.

We appreciated the opportunity to meet with you recently to discuss our comparative research and a few examples of our much wider concerns about a lack of police accountability and related violations of human rights. Obviously it is not possible to cover every issue in a meeting and, as you will be aware from our publications, and work locally and internationally, our concerns about policing in Northern Ireland are both wide and deep.

Reply.  
As per previous  
letter.  
C.A.J. file.

One of the issues, which we raised with you at our recent meeting, was the problem of police officers not wearing ID numbers at public order events during the summer and the lack of accountability that this issue exemplifies. The purpose of this letter is to outline two concrete examples of the serious problems which arise from the failure to hold officers to account. While neither of these cases was raised with you at our recent meeting, we believe that they bring into sharp relief the problems we have identified with police accountability. It is important that discussions on these issues do not become completely theoretical. We believe that discussions on these matters are important because they may help to prevent some of the human rights abuses, which have been committed and continue to be committed in Northern Ireland.

We raise a number of crucial questions in relation to the cases outlined below and we believe these are matters which you should be looking into urgently.

Robert Hamill

Robert Hamill, as you will be aware, was beaten and fatally injured by a crowd in Portadown in April. Police officers were at the scene but failed to save Mr Hamill. The officers, insofar as we understand, maintain that they did intervene but were outnumbered. However, this is contradicted by other witnesses, and crucially by the individuals who were with Mr Hamill. Additionally, in the immediate aftermath of the incident the RUC issued a number of conflicting press statements. The first, issued on 27<sup>th</sup> April, said that there had been a clash between rival factions in Portadown and that the police had come under attack from a section of the crowd. By 30<sup>th</sup> April the story had changed somewhat. It was now claimed that the crew of a police land

rover were alerted to a disturbance and immediately intervened to establish order and prevent assaults. The numbers involved, however, were such that these officers were unable to contain the situation and became themselves the subject of attack. It was only on 7<sup>th</sup> May, more than a week after the incident, that the police account confirmed that four people, two couples who had left a social event in St Patrick's Hall, were set upon by a large crowd in an unprovoked attack. Interestingly the action or inaction of the police was not mentioned in this statement which was completely at odds with that of 27<sup>th</sup> April.

? We would be grateful if you could provide us with the following information. Why were the initial press statements released? Who authorised their release? Where did the information they contained come from? Have you ordered an investigation into this feature of the case?

P. on? complaint  
inigation  
Suspension?  
comment  
? Obviously the most worrying aspect of the case is the allegation that the police officers did not actually intervene at all during the attack on Mr Hamill. We understand that this matter is the subject of a complaint. We would be grateful if you could update us as to the progress made to date in the investigation of that complaint. However, we also believe that the police officers involved have not been suspended. Given the seriousness of this case, we were surprised that no suspensions occurred while investigations were carried out. What are the disciplinary rules covering such situations? Apart from the failure of the officers concerned to save Mr Hamill, there is the additional concern that they apparently allowed a crowd of up to thirty people to assemble at what is known as a sectarian flashpoint, and failed to warn Robert Hamill and his friends of the presence of this crowd. Has an explanation been given for this failure?

ongoing inv.  
? The trauma for the Hamill family has of course been compounded by the decision to withdraw charges against five of the six men charged with the murder of Robert. While completely opposed to the holding of suspects on insufficient evidence, we are disturbed about the quality of the police investigation. For example, we understand that these men and a number of others were questioned in the days following the attack on Robert but not charged. They were then charged shortly after Robert died. It does not appear, given the fact that charges against five of the accused have been withdrawn, that particularly crucial evidence emerged in that period which enabled charges to be brought just after Mr Hamill's death. We would welcome an explanation as to why, in these circumstances, charges were not brought until after Mr Hamill's death.

ongoing invest  
? We believe that one of the problems faced by the DPP in pressing charges against the accused was the lack of forensic evidence. This problem was obviously caused by the failure of the police immediately to arrest individuals at the scene. Why was this not done? We also understand that at least one of the accused was identified by an officer as kicking Robert Hamill. If this is the case, was he arrested at the scene, or that night, and if not, why not?

idemore  
ongoing invest  
? The apparent lack of action by the police on the scene and afterwards was placed in a more sinister context by allegations in the press of links between some officers and some of the defendants. Have these alleged links been investigated?

? We would also be grateful if you could confirm whether witness statements have been withdrawn and if this has led to the release of the five accused. Did the police investigate why these statements were withdrawn? Was an effort made to locate and identify other witnesses to the incident?

As if the failings of the police investigation were not bad enough, it is of particular concern that the Hamill family and others involved in the case report further problems at the hands of the police. The three individuals who accompanied Robert on the night he was attacked were interviewed by the police but have told us that they felt the police were hostile towards them and were treating them more like suspects than witnesses. In another incident, a man stood in the street shouting abuse at the Hamill house, in which he mentioned Robert. The Hamill family called the police and state that when they arrived, they drove slowly past the house and did nothing. [redacted] eventually says that she went out and stood in front of the police vehicle to make it stop. She then pointed the man out to them. She complains that they then deliberately drove the long way around to the man but, unsurprisingly, by the time they got there, he was gone.

?  
Previous reply to wife  
?

Colin Duffy

Colin Duffy has had a long history of involvement with the RUC. In 1989 he was charged with conspiracy to murder a person unknown. He spent approximately one month in custody, was released on bail and some months later, the charges were dropped.

*Signed bail - 7.30am. Murder 7.40am at Kilmarie Street, 600 yds away.*

In 1990 he was charged with possession of ammunition. He spent approximately three months in custody and was then released on bail. When he and his two co-accused were signing bail in the local police station, they were attacked by members of a loyalist paramilitary group and one of his co-accused, Sam Marshall, was killed. It was alleged that only the police and the accused knew the details of when they signed bail. The charges were later dropped.

Wrong  
As per  
Amnesty  
letter

In 1991, he was charged with possession of information likely to be of use to terrorists. After a short period he got bail. He was then charged with similar offences and spent thirteen months in custody. The matter went to trial and he was acquitted.

In 1993 he was charged with murder on the basis of statements from two alleged eyewitnesses, whose identities were initially withheld from the defence. It later emerged that one of these was a member of a loyalist group and that the other was a security force member. Mr Duffy was convicted but when the loyalist eyewitness was then convicted of gunrunning, he was released on appeal. He had spent three years and three months in custody.

He was arrested on 23<sup>rd</sup> June this year and charged with the murder of the two police officers killed in Lurgan the week previously. It appears that the only evidence against him was a statement from a woman whom the police took into protective custody, and who was known locally as very unreliable and unstable. Despite this, and the fact that there were a considerable number of alibi witnesses and witnesses casting doubt on the credibility of the alleged eye-witness, Duffy was held in custody until early October, when the charges were unsurprisingly dropped. Concerns about the case increased when it emerged that witnesses who attended Lurgan police station to give statements on behalf of Duffy alleged that they had been treated with hostility by the police. This catalogue of events leads one to the conclusion that the police were interested, not in the truth, but only in evidence which would help to convict Duffy.

On-going  
+  
Complaints  
Amnesty  
letter

On 9<sup>th</sup> October, less than a week after the murder charges had been dropped, Duffy was stopped at an RIR checkpoint. He alleges that he was subjected to a humiliating and painful search by a soldier. He says his young daughter became hysterical and a confrontation developed with the soldier. He was arrested and a file has been sent to the DPP for consideration.

On-going

In the early hours of Monday 17<sup>th</sup> November, Colin Duffy and five companions were stopped in a car by the police on Waring St in Lurgan. The occupants were reportedly told to get out of the car. RUC officers opened the car doors and everyone except Duffy got out. Duffy then alleges that an RUC man leaned into the car through the rear driver's side passenger door and began punching him about the head. He alleges that another officer entered the car by the other side and began hitting him with a baton. This caused severe bruising to Duffy's left arm. A female friend of Duffy's says she went to his assistance by physically trying to stop one of the officers. She claims that he bit the little finger of her left hand, causing a wound, which required an anti-tetanus injection. She also suffered three fractures to her wrist and required four stitches to her elbow.

On-going

+  
complaints

No one was arrested at the scene and it was not until the next day at about 1.20pm that the police arrested Duffy. He was taken to Lurgan RUC station and questioned in the presence of his solicitor. Although it was alleged in the interview that he had assaulted an officer, the injuries inflicted on this officer were not detailed. At the end of the interview Duffy's solicitor has told CAJ that she asked Detective Constable Walker what would happen to Duffy and was told that he would be charged. She pointed out that there were witnesses in the station who had yet to be interviewed but the Detective Constable replied "he is going to be charged anyway."

We understand that six individuals had come to the police at approximately 5.00pm to make witness statements and lodge complaints against the police. They report that at about 5.30pm Inspector [REDACTED] informed them that he would record their complaints but would not be taking witness statements. We have been told that at around 7.00pm Sergeant Allen, the investigating officer told them that he would take statements from the witnesses another day, and that he had enough evidence from police officers.

Duffy was charged with grievous bodily harm and appeared at Lisburn Magistrates' Court the next day. When he appeared in the dock, his left arm was in a sling and he was marked on the face. Sergeant Allen was asked a number of questions, one of which asked him to confirm that none of Duffy's companions on the night of the incident had been arrested or charged. Sergeant Allen told the court that efforts had been made along that line of inquiry. In the very next answer he confirmed that two of those individuals were voluntarily in Lurgan police station the night before yet neither was even questioned, much less arrested.

We believe it is abundantly clear from the above that the police in Lurgan suspect Mr Duffy of involvement in paramilitary activity. They have in our view used highly dubious methods to try unsuccessfully to get Mr Duffy convicted in the courts. It now appears, that having failed in their efforts, they are determined to harass him to the point of seriously assaulting him. Even the choice of charge against Mr Duffy on this occasion, in the absence of a medical report on the officer involved, smacks of harassment in that it ensured Mr Duffy would have to spend a number of days in custody before he could get bail.

However, it appears that the police in the Lurgan area do not simply have difficulty in dealing appropriately with Colin Duffy but also with his solicitor, Rosemary Nelson. We have of course already written to you in relation to Ms Nelson and the assault which she states was committed upon her by members of the RUC on Garvaghy Road in July. She has also claimed that threats against her person and derogatory comments about her have been made by detectives based at Gough Barracks to a number of her clients detained there. Indeed we have interviewed several of those clients and passed the statements to the ICPC. Additionally, Ms Nelson and other solicitors from her firm have made several complaints about the improper and hostile attitude exhibited towards them by officers based at Lurgan RUC station.

*Confirm*

The above cases, viewed individually, would be profoundly disturbing. However, together they paint a very serious picture of policing in the Lurgan/Portadown area. They suggest that some of your officers feel they can act improperly, and sometimes unlawfully, without fear of effective sanction. Local police commanders appear to have failed in their duty to ensure their officers behave properly. The lack of local control is of concern but the problems experienced by the Hamill family and Colin Duffy and others in the Lurgan/Portadown area must have been obvious to senior officers including yourself for some time.

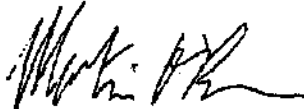
We should very much welcome any information which you can provide us with as to the concrete steps which you and other officers have taken at a policy and management level to address these concerns. We believe that it is crucial that the questions we have raised in relation to these two cases be answered satisfactorily.

*was earlier reply*

We look forward to hearing from you in relation to the above and also our earlier request for information on plastic bullet usage. Many thanks for your attention in these matters.

*what is this?*

Yours sincerely,



Martin O'Brien  
Director