

Gen. Sec 9/17/390

17 December 1997

Ronald Flanagan
 Chief Constable
 Royal Ulster Constabulary
 Brooklyn
 Knock Road
 Belfast BT5 6LE
 Northern Ireland



AOL

Dear Chief Constable:

Human Rights Watch is deeply concerned about the persistent harassment of Lurgan man Colin Duffy, evidenced most recently by his arrest on November 17, 1997. For the past seven years, Mr. Duffy has suffered a pattern of intimidation that has bordered on the obsessive at the hands of Northern Ireland's security forces. It is with profound disappointment and a sense of urgency that we write to express our concern not only about Mr. Duffy's individual ill-treatment but about what appears to be a defiant display of the most regressive of abusive police practices historically employed by the RUC. Thus, Human Rights Watch urges you to investigate Mr. Duffy's situation with an eye toward the general reform of policing in Northern Ireland which is a necessary prerequisite to the success of the current peace process.

As you well know, Mr. Duffy has been harassed, arrested and detained numerous times since 1989. Detentions in 1989, 1990, 1991, and 1993 ended when charges against Colin Duffy were dropped or he was acquitted at trial or on appeal. In the 1990 incident, loyalist paramilitaries attempted to assassinate Mr. Duffy after he signed for bail at a Lurgan police station. Mr. Duffy's colleague, Sam Marshall, was shot dead. The bail arrangements at the time of the killing were known only to Messrs. Duffy and Marshall, their solicitors and the RUC. It has been alleged that the police passed information regarding the bail arrangements to the loyalists who attacked Colin Duffy and Sam Marshall.

In the summer of 1993, Colin Duffy was arrested and charged with the murder of John Lyness, a former UDR/RIR sergeant. His trial did not commence until May 1995, after he had served nearly two years on remand. Colin Duffy was convicted in July 1995 for Lyness' murder largely on the testimony of an anonymous prosecution witness. He immediately appealed. In December 1995, the prosecution's key witness, Lindsay Robb, was convicted and sentenced to ten years in prison for purchasing arms for loyalist paramilitaries. Colin Duffy subsequently was acquitted on appeal after the judge determined that Lindsay Robb's testimony alone could not be relied upon. Colin Duffy had spent over three years in custody. In the course of Robb's trial, it was revealed that the RUC had given him a substantial sum of money and a firearm "for his protection" after Colin Duffy was convicted at trial. It has been alleged that the RUC was aware of Robb's paramilitary associations at the time it employed Robb as a witness in the Duffy trial.

Due process of law

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In June 1997, Colin Duffy was arrested yet again. He was charged with murdering two police officers in Lurgan on June 16, 1997. Colin Duffy had an alibi, and numerous alibi witnesses came forward to confirm his whereabouts. The evidence allegedly implicating Colin Duffy in the murders of the two officers consisted of a statement from one woman reputed to be emotionally unstable and notoriously unreliable. A member of this woman's own family gave the RUC a statement describing her infirmities. Numerous additional witnesses came forward to challenge the credibility of this witness, who was kept in police custody throughout the course of the murder investigation. Some witnesses who attempted to give statements to the police on Colin Duffy's behalf were allegedly met with hostility by Lurgan-based RUC officers. In October, the charges against Colin Duffy were dropped. The embarrassing lack of evidence and overt unwillingness by the RUC to investigate this case thoroughly strongly suggest an RUC bias against Colin Duffy.

On October 9, 1997, Colin Duffy's car was stopped by the Royal Irish Regiment. Duffy's pregnant wife, daughter and nephew watched as he was subjected to a body search during which he alleges he was physically ill-treated. Colin Duffy was then arrested and released later that day.

Most recently, Colin Duffy alleges that he was assaulted by RUC officers in an unprovoked attack on November 17 in Lurgan. Mr. Duffy alleges he was attacked while sitting in a car with a group of friends. Duffy claims that one officer entered the car and punched him about the head and that another officer entered the car from the opposite side and hit him with a baton. A female friend attempted to assist Mr. Duffy and was assaulted by an RUC officer as well. Other bystanders also report having been assaulted by RUC officers.

Colin Duffy was arrested the following afternoon and charged with inflicting grievous bodily harm on an RUC officer. When he appeared in magistrate's court to hear the charge, Duffy's arm was in a sling and he had visible welts on his face. Despite allegations by Mr. Duffy that the police spoke about the Prevention of Terrorism Act during the incident, Duffy was charged under the ordinary criminal law although the offense was scheduled under the Northern Ireland (Emergency Provisions) Act 1996.

Numerous irregularities in the course of this incident indicate yet again that Mr. Duffy had been targeted by the RUC for harassment and intimidation. For example, no arrests were made at the time of the incident. The next day, numerous witnesses—including two of Colin Duffy's companions in the car—went to the police to give statements confirming Colin Duffy's account of events and make complaints against the police. An RUC inspector took their complaints but refused to take witness statements. An RUC sergeant told them that he would take witness statements at a future date. Despite RUC claims that Duffy assaulted the officers with the help of his companions, no questioning was conducted nor were arrests made when some of these same people voluntarily attended the Lurgan police station to make statements and/or complaints. No medical report was available detailing the injuries allegedly inflicted by Colin Duffy on a particular RUC officer. It was revealed subsequently that this officer had not been examined until hours after the incident occurred. A tape recording of Duffy's interview with the RUC indicates that no specific allegations of assault

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against any particular police officer were put to Colin Duffy during questioning. Not surprisingly, Colin Duffy was charged with a scheduled offense which ensured that he would be kept in jail a number of days before he could request bail from a higher court. Colin Duffy was granted bail on November 19, 1997. His bail conditions—restricted to his home between 10:00 p.m. and 7:00 a.m. and signing for bail at a police station the same time every week—were announced publicly in court. Although subsequently amended to allow Colin Duffy to sign at two different times at two different stations, these restrictions are reminiscent of those placed on Colin Duffy and Sam Marshall in March 1990—the leaking of which resulted in Mr. Marshall's killing by loyalist paramilitaries.

Over the years, Mr. Duffy has been subjected to harassment, intimidatory tactics, and, arguably, unlawful detentions. We urge you to take immediate steps to halt security force harassment of Mr. Duffy. However, past experience indicates that Colin Duffy could be a potential target of loyalist paramilitaries. Thus, we also call on you to provide Mr. Duffy with adequate protection in the face of paramilitary intimidation, physical injury, or attempts on his life. It must be forcefully articulated to the RUC officers responsible for Colin Duffy that ill-treatment will not be tolerated and that officers responsible for such ill-treatment will be held accountable. Moreover, the RUC must comply with its obligations to investigate thoroughly any incident involving Mr. Duffy. A clear message must be conveyed to Lurgan RUC that refusing to take witness statements is not the prerogative of individual officers.

Colin Duffy's case illustrates the spectrum of abuse that has characterized policing in Northern Ireland throughout the course of "the Troubles." From credible allegations of unprovoked physical assault by law enforcement officers to obstructing investigations involving Mr. Duffy's alleged participation in a crime, RUC officers (particularly in Lurgan) have repeatedly and overtly defied their obligation to uphold the rule of law.

Human Rights Watch calls on you to view Colin Duffy's case in the context of a peace process which requires immediate attention to human rights concerns if it is to succeed. Continuing police abuse of this sort can only serve to erode trust in the process. Affirmative steps to end the ill-treatment of Colin Duffy coupled with genuine dialogue and action on much needed police reform will go a long way toward building confidence in the idea that a professional, impartial and accountable police force is in Northern Ireland's future.

Sincerely,


 Executive Director
Human Rights Watch/Helsinki

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