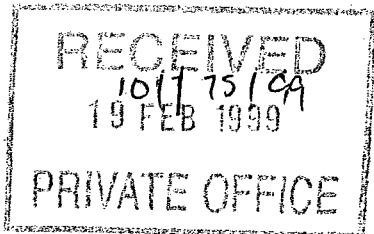


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FROM:

Police Division  
February 1999

① me to talk to AG & name privately  
② P-10. we pass to ask about  
other investigations

See copy distribution below

SeSS

1. Mr [redacted] - I agree with what is proposed, KL 19/2
2. PS/Secretary of State (B&L)

③

ROBERT HAMILL CASE

Content to agree the recommendation and speak privately to Chief Constable and Attorney General.

Summary If Lawrence/Hamill - accomplices come into play next week - words off TK

Issue: As requested by the Secretary of State, to provide background papers on the Robert Hamill case and advice on the steps the Secretary of State might take to encourage those dealing with it to do so expeditiously.

J 19/2

Timescale: The information was requested urgently.

to say mandatory programs not forgotten

Recommendation: That the Secretary of State should note the current position on the case against Paul Hobson, who has been charged with Robert Hamill's murder, and on the file reporting on the alleged inaction of the police officers. That she should take an opportunity to speak privately to the Chief Constable and Attorney General about her concerns over the timescale for the case and to encourage them to devote all possible resources to it. To note the statutory powers at her disposal, and to agree that these should not be employed at present.

Background papers

2. A bundle of miscellaneous papers on the Hamill case is attached as requested. They are in chronological order. They include the Secretary of State's correspondence with the Hamill family (including with [redacted] of the Committee on the Administration of Justice on their behalf), these are flagged at Annexes A, B and C. The bundle also includes correspondence between the

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Chief Constable, the Attorney General and the Secretary of State, see Annexes D, E, F and G. This correspondence gives additional background information and, to a degree, highlights the concerns of the Chief Constable and Attorney about the Secretary of State having too direct a role in the case. At Annex H is the most recent substantive letter from the Attorney's office to Diane Hamill (the Attorney's office have notified her of all significant developments). Press cuttings about the case, including reference to the family's intentions to bring a private prosecution are at Annexes I, J, K and L. Other miscellaneous papers, including the recent exchange between the Prime Minister and Diane Hamill, are included in the bundle.

### The case - current position

3. The murder of Robert Hamill has been investigated by the police and a report submitted to the DPP. Six people were initially charged by the police but the DPP concluded that there was insufficient evidence to proceed with prosecutions against five of these. He took the advice of Senior Crown Counsel before reaching the decision to drop the charges against the five.
4. One person, Paul Hobson, is being prosecuted for the murder and his trial is scheduled to start on Monday 22 February. I asked the Attorney General's office for an estimate of how long the trial might last. They say that it is likely that Mr Hobson's counsel will state at the outset that there is no case to answer. Assuming this is unsuccessful, then the trial could last 2-3 weeks (there are around 20 witnesses to be called). It is likely that the judge will reserve his judgement, and it is difficult to estimate how long it would be before he delivers this.
5. Once the trial has been completed, the DPP will consider the file, prepared under ICPC supervision, into the alleged inactivity of the police officers at the scene of the murder. The DPP will either direct prosecution, in which case there will be a trial, or no prosecutions. In the latter event papers will be sent to the Chief Constable to consider the disciplinary aspects of the case. (It is normal practice for the DPP to wait until the conclusion of a trial before considering a related case against the police in case new, relevant information comes out in court).

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6. Once the Chief Constable has considered discipline, he is required to put his recommendation to the Independent Commission for Police Complaints. It can agree with his recommendation or, if it does not, can ultimately direct the Chief Constable to bring charges.

7. Diane Hamill, the CAJ and Rosemary Nelson have all been very vocal about the case and have lobbied in Northern Ireland, and, for example, the States. The family also met the Patten Commission. In addition, Diane Hamill and a member of the Stephen Lawrence family, spoke at the recent Bloody Sunday parade in Londonderry. There are some parallels between the Lawrence and Hamill murders and it is possible that there will be some pressure put on by the Hamill family when the Lawrence report is published (which is expected next week). We are in contact with the Home Office about the report, and will submit lines to take to coincide with its publication.

### The role of the Secretary of State

8. As the Secretary of State has told the Hamill family, she has no role in the prosecution process or indeed in consideration of the disciplinary aspects of the case. It would not be appropriate for her to be involved in these. The Secretary of State should note that the Chief Constable and Attorney (and DPP) are very sensitive to what they would see as any interference. There are, however, a few avenues open to the Secretary of State.

9. There are two statutory options available and at least one other possibility.

10. Under the Police (Northern Ireland) Act 1998, section 49, the Chief Constable shall "whenever so required by the Secretary of State ... submit to the Secretary of State a report on such matters connected with the policing of Northern Ireland as may be specified in the requirement". The Secretary of State used this power when asking for her initial report on the case. It is seldom used, and seldom has to be. It would not seem appropriate to use it at this stage as the police files on the case are with the DPP. It could, however, be used if necessary to ask the police what other investigations they have ongoing into the case. In addition, it could be used at the disciplinary stage if the Secretary of State cannot obtain information by less formal means on progress etc.

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11. The other statutory power is contained in the Police and Criminal Evidence (Northern Ireland) Order 1989, Article 83. Under this the Secretary of State "... may cause a local inquiry to be held by a person appointed by him into any matter connected with policing". Any inquiry under this Article shall be held in public or in private as the Secretary of State may direct. The report may be published, but if it is not, then a summary of the findings and conclusions shall be made known by the Secretary of State as far as this appears to her to be consistent with the public interest.

12. It was the England and Wales equivalent of this power which the Home Secretary used in the Stephen Lawrence case. He did not use it, however, until other avenues had been pursued i.e. charges had been withdrawn by the CPS, complaints investigated and private prosecutions failed. The terms of reference for the Lawrence inquiry are attached.

13. I have discussed the use of this power with colleagues and our advice is that the Secretary of State should not rule it out at some point in the future, but should not use it now when (unlike in Lawrence) the case is about to go before the courts, and a report on the police action is yet to be considered by the DPP. It would be better considered when the trial and consideration of the alleged police inaction have been concluded. If an inquiry is considered, the first issue would be the terms of reference for it. We already have the Patten Commission and the Criminal Justice Review underway and would not want to overlap with these. Another issue is the complication that an inquiry would cause at this stage in terms of immunity from prosecution, when trials are going on. It is possible that the inquiry could prejudice any criminal action. Finally, inquiries are not speedy affairs. The Lawrence inquiry has taken 19 months.

14. A third, practical, option, and the one I recommend, is for the Secretary of State to speak privately to the Attorney General and Chief Constable to pass on her concerns about the delay in the cases is causing and the "political" pressure that this is causing. She could also mention that she believes that it is something that Patten might comment on, and it is in the best interests of the system for the cases to be dealt with as expeditiously as possible. Importantly this is not a case of the Secretary of State telling them to hurry due process, the message is that it would be helpful if sufficient priority could be given to the case against the police officers by the DPP once

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the trial against Paul Hobson is completed, and to the consideration of the disciplinary aspects of the case against the police officers by the Chief Constable when it gets to that stage. In addition, officials can talk to [REDACTED] Chairman of the ICPC, to ensure that the Commission devotes resources to the disciplinary aspects of the case when they get the Chief Constable's recommendation.

15. The approaches to the Attorney General and Chief Constable could be made by letter, but I think that it would be more effective coming privately from the Secretary of State at this stage. I can, however, provide a draft if that is required.

Conclusion

16. The Secretary of State is invited to note the current position on the Robert Hamill case, to note the options outlined above and to agree to speak to the Attorney and Chief Constable privately in the first instance. If the Secretary of State agrees with this approach we will also speak to [REDACTED]

signed

[REDACTED]

Copy distribution

[REDACTED]

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ANNEX

TERMS OF REFERENCE:

"To inquire into the matters arising from the death of Stephen Lawrence 22 April 1993 to date, in order particularly to identify the lessons to be learned for the investigation and prosecution of racially motivated crimes."

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