

Mr Mc Gray

- ① See Senior Council's advice (faxed copy)
- ② I am unsure as to what the final sentence of paragraph 2 means ^{1/2}
- ③ Please discuss a.s.a.p. (4) Note that to

Mr Kitson

D.P.P.

Re Death of Robert Hamill

L.C.P.C. have not given
 as yet their final views
 on whether any further
 basis of
 requiring an
 appeal.

Raymond K.

23-6-99.

1. Counsel is asked to comment on the opinion given in relation to the allegations made against Police Officers on behalf of the deceased's family. Such comment is to be based on the evidence that was given at the trial and the judgement therein.
2. The evidence in the trial which I have read for the appeal by Johnson against his conviction on the count of Affray heard yesterday 21 June 1999 did not raise any matters which I feel fundamentally alter my expressed views. The clear conflict in timing of events between the civilian witnesses with the deceased as against the police was if anything highlighted. The police evidence was an affirmation of the case made in their witness statements and in the interviews that is that they were unaware of any serious incident until they left the landrover. On this basis the proposed offence would not arise.
3. The civilian witnesses if anything made the attack upon Mr Hamill and D even more sudden. As the judge commented on their account it was unlikely the police could have done anything to prevent the attack. On the basis of the civilian evidence their timing therefore conflicts with their complaint.
4. The judge at pp 19-21 raised three matters.
 - (a) The lack of interest shown by the officers in the message given to the police by the man approaching the landrover.
 - (b) The choice of position for the landrover.
 - (c) The lack of action re Lunt.

What does the
mean

?

5. As often happens the judge is unaware of the full facts of the case and his comment as to Lunt and Prunty's allegations were in fact unjustified in that but for Prunty Lunt would have been prosecuted for murder.
6. The first comment may or may not be justified. Neill and Atkinson both stated that when they heard that patrons from the Hall were coming they looked across but there was no sign of any at that stage. I have to say that I do not feel their failure to pay more regard to the information is sufficiently serious as to constitute wilful neglect of duty.
7. The second comment as to the position of the landrover is with hindsight more significant. On the evidence, the position was taken up because of events on the ground at that time. It was not suggested that it was a deliberate ploy to avoid seeing anything. It may now be seen to have been unfortunate but cannot in my view be considered as other than a misjudgement and not the basis, alone or in combination with the other matter as a basis for a criminal prosecution.
8. I am of course available to discuss the matter if considered helpful.

Gordon W Kerr
Gordon W Kerr Q.C.