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Cullen P1
2008
C. H. McNeil

TO: HQ
FOR: A/Secretary Gallagher

FROM: BELFAST
FROM: Joint Secretary

8 January, 1991

Cullyhanna Shootings

1. I saw Mr. Ledlie at Stormont at 8.30 this morning. He referred to the formal response which he had given to Mr. Barry at the Secretariat on Friday afternoon, saying that in the circumstances of the police investigation, any formal response could only be limited. He was however, willing to let me have information available to him on an informal and personal basis and in strict confidence. As a preliminary, he said that he was personally conscious of the feelings of the Caraher family and he was very aware of the problems which had been caused for the British Army by the incident.
2. Ledlie gave the following account of what happened according to an initial British Army report:

A patrol of marines - eight in all - were operating a checkpoint on the Cullyhanna Road at the time of the incident. Fergal Caraher drove towards the checkpoint followed by his brother Michael in another car. Fergal was stopped and asked questions. The soldiers were not satisfied with his response - there was an altercation - but when told by Fergal that he was going to park in the car park of the Lite 'n Easy Bar 30 - 50 yards up the road on the left hand side, the soldiers decided to question him further there. In response to my question, Ledlie said that it was not suggested that Fergal had forced his way through the checkpoint but neither had he been waved through, ie, he had no authorisation to proceed. A second, more robust altercation occurred between soldiers and Fergal in the car park. Then the Carahers' white Rover car (Michael Caraher driving with Fergal in the passenger seat) drove off. The soldiers shouted to the car to stop. One soldier banged on the window or windscreen (Ledlie was not sure which) of the car to stop it, putting his hand through the glass in the process. Another was lifted on to the bonnet and was carried a distance of about 25 yards along the road falling from the car into a ditch and injuring his leg/back. One soldier then fired at the car from the rear killing Fergal and seriously wounding Michael Caraher. Michael drove the car for a further mile before stopping and calling an ambulance, causing the Army to think subsequently that a third man must have been driving. so far as Ledlie knew, there was no third man in the car.

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3. Ledlie stressed that this was the first Army account of the incident, that the detail could well be wrong, that it conflicted with eyewitness accounts which could, however, be partisan and that it was for the RUC investigation to establish the truth. In reference to our formal question last week, he indicated that it seemed doubtful to him personally that a soldier firing from behind a vehicle could have killed Fergal Caraher and wounded Michael. It seemed more likely that the shooting was done by another soldier stationed in front of the vehicle. Although he stressed that he was speculating, Ledlie clearly doubted the accuracy of the first Army version (as indeed the RUC appeared to do in their statement).
4. The security forces have told Ledlie that Fergal Caraher had a reputation for making difficulties with the security forces at checkpoints and indeed had been involved in an incident at a Garda checkpoint in the South. Ledlie did not make a big point of this and in fact distanced himself a bit from it. He had no details of the Southern incident and suggested we check this ourselves with the Gardai.
5. Ledlie repeated his sympathy for the Caraher family granted especially that in the normal course for this kind of incident it would be some months before the RUC had completed their round of interviews, conducted their forensic examinations and made their assessments; and that in the interim there was nothing that could be said to the family.
6. He said again that he was conscious of the problems for the British Army and he knew that this incident would have a long lasting effect. He regretted also that his side had got off to a bad start with Archbishop Daly. Notwithstanding the fact that the soldiers involved were in trouble because it could be said that their action in stopping the car was not within the terms of reasonable force, it seemed to him there was a need for some means other than the ordinary legal processes of dealing with such situations, but it was difficult to know what could be satisfactory. I spoke of proposals we have presented in the past on the use of lethal force and Ledlie expressed a desire to discuss these further, eg, the possibility of bringing charges for unlawful killing and that codes of conduct in such situations should be made statutory allowing the DPP to bring charges. I mentioned that the issue had been considered by Colville and by SACHR.

*sends follow
view the
soldiers involved
to be in an
Army*

7. I made a number of other points:
 - The marines were a regiment with a reputation for aggressive behaviour in South Armagh and South Down (including Carlingford Lough). Indeed it was assumed that was the reason they were put into this area. We had cause to question the ethos of the regiment and the briefing given to them in the past.

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The local perception in this and similar cases was (a) that the Army would cordon off the area to shield the soldiers involved from eye witnesses and indeed from the police and to remove evidence, (b) that the police investigation would be a reason for no information to be given other than disinformation, (c) that eventually a file would go to the D.P.P. and except in the rarest instances he would bring no prosecution, (d) that even in a case of prosecution the Courts would not convict and if they did (Thain), the Army would secure release after a derisory couple of years and (e) any inquest would follow after years delay and the soldiers, if they gave evidence at all, would do so anonymously and in writing. The cumulative effect was to cause a strong impression among Nationalists that justice simply did not operate in these cases.

It was extraordinary that the Army should blithely announce that the soldiers were back on duty a day later. I recalled at least one case where soldiers were suspended or "not required for operational duty" pending the results of Army investigation. Ledlie took note of this point for further discussion with the Army.

8. This seems about as far as we are likely to get in pursuit of information here for the moment.