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17 May 1993

DESK IMMEDIATE

- cc PS/Sec of State (B&L) - B
 PS/PUS (B&L) - B
 PS/Mr Fell - B
 S33/s Mr Ledlie - B
 Mr Steele - B
 Mr Thomas - B
 Mr Bell *in hand* - B
 Mr Williams - B
 Mr Watkins - B
 Mr Wood (B&L) - B
 Mr Marsh - B
 Mr Rickard - B
 Mr Brooker - B
 Mr Maccabe - B
 Mr Dodds - B
 Mr McCaffrey
 Mr Perry
 (Without annex C)

ASST
SEC 17 MAY 1993
CENT SEC

1. Mr Leach [SJL 17/5/93]
2. PS/Mr Mates (B&L)

COALISLAND INCIDENT - 12 MAY 1992
TRIAL OF MEMBERS OF THE PARACHUTE REGIMENT

6. This submission updates the Minister on the latest significant developments in this trial and gives lines to take in the event that it should be dismissed on Monday 17 May.

The Incident

2. The 3rd Battalion The Parachute Regiment (3 PARA) was deployed in March 1992, as an additional battalion in support of 8 UDR, in light of the high level of threat in East Tyrone at that time. There was an urgency in the deployment and, as a result, the 3 PARA soldiers were not given the usual full training and did not, for example, receive briefing from the CIVREP. There had been a number of allegations of misconduct by the regiment, made prior to 12 May, and the CIVREPs and the police had recorded, and tried to calm, tensions that had arisen.

3. On 12 May 1992, in a follow-up to an explosion at Cappagh, Co Tyrone, in which Private (3 PARA) lost both legs, a patrol from 3 PARA were involved in disturbances in several pubs in

C O N F I D E N T I A L

-2-

Coalisland in the course of which civilians were allegedly assaulted, a soldier injured, and property in one of the pubs damaged. It appeared at the time that the incident was a reaction by the soldiers to the injury of their colleague. Their case in court, however, has been based on the fact that bottles were thrown at them, and that they went into the pubs to arrest one of those responsible.

Follow-up to the incident

4. The incident resulted in considerable press interest and led to questions from the Irish, local elected representatives, local clergy and others - including Kevin McNamara and Lord Hylton - about the suitability of the regiment either to serve in Northern Ireland or to come into contact with the public.

5. Had the incident on 12 May been the first and only such occasion involving 3 PARA, arguably it could have been more easily dealt with. There had, however, been a string of complaints about the regiment, and an almost unprecedented level of concern expressed by reputable people about its behaviour.

6. A firm line was taken by Government at the time, which stated that a police investigation was underway and that the highest standards of behaviour were required of all soldiers. The situation was not helped, however, by a further incident on 17 May, when 8 soldiers of the King's Own Scottish Borderers and one UDR soldier were allegedly attacked by a group of 20/25 youths in Coalisland, and a General Purpose Machine Gun, SA80 rifle and equipment seized by the crowd. In the operation to recover the items, the area was cordoned off using all available resources - including 12 members of 3 PARA. Five of these soldiers were allegedly attacked and, in an effort to extricate themselves, fired warning shots into the air and then at the ground in front of a crowd, causing gunshot wounds to three civilians. This incident further heightened tension and again was met by a firm response from Government.

7. In the immediate aftermath of these incidents, the Army took the unprecedented step of announcing publicly that the Platoon Commander was being moved to other duties. There was some confusion

C O N F I D E N T I A L

SPOBGEN1/1364/DW

C O N F I D E N T I A L

-3-

as to whether or not he had been suspended, but in fact he was simply moved. Following this, the Brigade Commander, Brigadier Longland, was also transferred to other duties. This latter move, although not a direct consequence of the incidents, was perceived as such by the media and public alike.

Irish side's interest

8. The Minister will recall the reaction of the Irish to the incident, including comments in the Dáil and an exchange of correspondence between the Secretary of State and Mr Andrews. Mr Mates personally briefed Mr Flynn. The general tenor of the exchanges was that the Irish felt that the regiment was unsuitable and called for its removal. Mr Andrews stated in his letter to the Secretary of State of 21 May 1992 that:

"I believe it is reasonable to suggest that a regiment whose record and behaviour are a manifest liability in terms of relations with the nationalist community, and who have unquestionably engendered confrontation and tension, should be removed from an environment and a role for which they are so clearly unsuited."

9. We can, therefore, expect a keen interest from the Irish side in the outcome of the court case.

Outcome of police investigations

10. The police forwarded reports to the Director of Public Prosecutions who, on 11 November 1992, directed that six members of the Parachute Regiment should be prosecuted in connection with the incident on 12 May. A full list of charges is at Annex A. He directed no prosecution for the incident on 17 May.

Compensation

11. The incident on 12 May led to five claims being lodged with the Compensation Agency. Four of these, from three civilians and one soldier, were in respect of personal injuries, and will not be

C O N F I D E N T I A L

SPOBGEN1/1364/DW

C O N F I D E N T I A L

-4-

settled until the court case has been concluded. The fifth was a criminal damage claim for damage to a public house and was settled on 7 April 1993.

The court case

12. The trial, at Cookstown Magistrate's Court, began on Tuesday 4 May. On 12 May, the defence lawyers argued that there was no prima facie case for the soldiers to answer, submitting that the prosecution had failed to prove that the soldiers were involved in any illegal behaviour. The Magistrate, Mr McHugh, adjourned the case until Monday 17 May so that he could consider the "complex matters" raised by the defence. I am told by the legal advisers at HQNI that it is unusual for a Magistrate to adjourn a case for this long and that it may mean that he has doubts about the prosecution case.

5

The court decision

13. If the case is dismissed, or indeed if it continues and all of the soldiers are found not guilty, then (although some will feel that the soldiers have been vindicated) it is likely that the majority of those expressing a view will suggest that the system has failed and that the men should have been found guilty. In any case, the Parachute Regiment will be subjected to criticism and their suitability for deployment in Northern Ireland will be questioned. A 'case dismissed' decision or not guilty verdict before the local government elections may well be manipulated.

Line to take

14. There are two important points to consider in handling the Government's reaction to the Magistrate's decision. Firstly, it is not appropriate for the Government to comment directly on a court decision, particularly if the soldiers are found guilty, as they may appeal. Secondly, many of the issues which will arise are primarily matters for the MOD (for example training) - a copy of the MOD's defensive press material is attached at Annex C. Nevertheless, there are a number of areas on which it is entirely appropriate for

C O N F I D E N T I A L

SPOBGEN1/1364/DW

C O N F I D E N T I A L

-5-

NIO Ministers to comment, including: the requirement for soldiers to act within the law; the existence of proper procedures for investigation of complaints, and the Government's confidence in these; and the suitability of all regiments to serve here. Lines to take on these are attached at Annex B.

Handling the Irish

15. The Irish side will be briefed on the court decision as soon as possible after it is made. It is quite likely that the decision will lead to a number of questions from them about, for example, possible disciplinary action against the soldiers. These will be handled if and when received.

[Signed SR]

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SPOBGEN1/1364/DW

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ANNEX A

<u>Name</u>	<u>Rank</u>	<u>Charge</u>
Andrew Short	Lieutenant	Four counts of assault occasioning actual bodily harm; unlawful assault; malicious damage; and disorderly behaviour
John Hardy	Lance Corporal	As above
David Martin Forster	Private	As above
Alan Stewart Phillip	Private	As above
John Wynne-Jones	Sergeant	Two counts of assault occasioning actual bodily harm; unlawful assault; malicious damage; and disorderly behaviour
Michael John Wright	Corporal	Malicious damage

5

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SPOBGEN1/1364/DW

C O N F I D E N T I A L

ANNEX B

(If guilty)

- I cannot comment on the decision of the Court. It would be inappropriate for me to do so as the soldiers may appeal the decision.

(If not guilty)

- The Magistrate reached his decision on the evidence presented to him.

(General)

- Government policy in combating terrorism, and crime generally, in Northern Ireland, as in the rest of the UK, has as one of its guiding principles that the police and armed forces must operate at all times within the rule of law.
- The Army are deployed in support of the police and operate under their direction.
- Procedures exist for the investigation of incidents where criminal behaviour has been alleged against the Army. There is a professional and impartial investigation by the police, the results of which, together with any forensic reports, are passed to the independent Director of Public Prosecutions. The DPP may, if he thinks fit, direct further inquiries and will decide, on the basis of the factual evidence, whether or not a prosecution is to be brought.
- The Government has complete confidence in these procedures. They are a fair and impartial means of investigating allegations of criminal behaviour.
- The public is entitled to expect the highest standards of behaviour from members of the armed forces. The Government, and security force Commanders, have made it clear on a number of occasions that nothing which falls short of these standards will be condoned.

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SPOBGEN1/1364/DW

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(Training) - To the maximum extent possible all soldiers are given extensive training before they are deployed to Northern Ireland. This includes briefing on the difficult situations which they are likely to encounter, including violent public order situations.

- (Will the soldiers be subject to military discipline?) - This is a matter for the MOD, but I am sure that it will be looking at this in light of the Court judgement.

- (Will the soldiers remain in the Army?) - This is a matter for the MOD.

- (Will the soldiers serve in Northern Ireland again?) - This is a matter for the MOD.

- (Will PARA battalions serve in Northern Ireland ever again?) - Yes, deployments are a matter for the MOD, but I do not accept that any Regiment in the Army is unsuitable for deployment in Northern Ireland. *(Indeed a battalion of the Parachute Regiment is currently based at Holywood).

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* (Background - 1 PARA are the current Holywood Battalion and will be replaced by 2 PARA in June 1993. 1 PARA will then return as the East Tyrone Battalion in December 1994. 3 PARA are not due to be deployed again until mid 1995 (at the earliest). No comment should be made on future deployments.)

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