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By Chris Thornton
Wednesday, 17 September 2008

A major academic study has raised critical questions about the independence of the Historical Enquiries Team, the PSNI unit set up to re-examine Troubles murders, calling for it to be effectively replaced.

A draft report by a University of Ulster lecturer who had "unprecedented access" to the HET for more than two years also concludes that HET investigators have established a hierarchy of cases that inadvertently favours nationalists.

Dr Patricia Lundy also found:

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What are these?

- HET uses former RUC Special Branch officers as “gatekeepers” of secret intelligence
- Records — including the names of soldiers who killed civilians — have been lost or deliberately destroyed by the Army
- Families were often unaware that their case had been essentially treated as “a desktop review”.
- An officer accused of lying to the Omagh trial worked as one of the investigators
- Firewalls designed to keep former RUC officers out of controversial cases have broken down.

Speaking after a draft copy of the report was leaked on the internet, Dr Lundy said she was not questioning the integrity of officers who work on the team, but said the HET needs to be “completely restructured”.

A PSNI statement said the HET “will look closely at the comments made in the report by Dr Lundy”. It said some of her research is “now outdated” and described the “experience of families” as the “litmus test” for the HET’s work.

Much of Dr Lundy’s 48-page report, which was posted on a Californian website earlier this week in advance of publication, questions the independence of the unit, which reports to Chief Constable Sir Hugh Orde.

Sir Hugh set up the HET in 2005 to examine all “deaths attributable to the security situation here between 1968 and 1998”, help bring “resolution” to families and chase new evidential opportunities.

In reality, senior officers have acknowledged that there are few evidential opportunities remaining in older cases. The HET has examined over 500 cases so far, bringing charges against two men.

Dr Lundy, a senior lecturer in sociology, said the basic “concept is good — a case by case basis, reporting at the end. I can’t criticise that.” But she said the structures of the HET undermine its independence.

She notes that there is an “over reliance” on retired RUC officers. Out of 166 people working on the team last year, 66 were former RUC officers.

Her report says the “the strategic positioning of former RUC officers and particularly those with a Special Branch background not only undermines actual but perceived independence.”

“Throughout the process, from collection phase, through intelligence gathering, to delivery of resolution, the over reliance on retired RUC has, albeit that it may be more apparent than real, the perception of an inherent conflict of interest.

“I’m not questioning their personal integrity or professionalism,” she said yesterday. “It’s about perception.”

Her report also reveals that Chief Inspector Phil Marshall, who was accused of lying by the judge in the Omagh bomb trial, worked on the HET. She said he left the unit last year, before Mr Justice Weir’s criticisms were made public.

Dr Lundy also reveals that the Army has lost or destroyed records indicating the real identities of soldiers who were involved in early killings.

Soldiers involved in such incidents were usually referred to by letters — Soldier A, for example — but the Army does not have the records indicating who is Soldier A. This has raised difficulties for the HET investigators, she indicated.

Dr Lundy says the Army destroyed “all records” covering 1969 to 1975, covering most of the period when the Army had primacy over police.

She also said there are “serious questions about the integrity of exhibits” collected by the HET when they began their work. “Files and exhibits were found in all manner of places including attics and roof spaces, garden sheds, behind and under filing cabinets and seemingly any other available space.”

Material that was discovered could not be immediately collected and remained in sealed boxes in police stations.

“On more than one occasion these boxes were emptied of their contents in the police station where they were stored awaiting collection.”

One of Dr Lundy’s chief criticisms concerns apparently preferential treatment given to families who are



represented by non-governmental organisations like the Pat Finucane Centre. She says that tends to lead to a focus on nationalist cases, because unionist and Army families do not have the same representation.

She said "the investigation and outcome is significantly influenced by representation.

"The differentiation in treatment is evidence at each stage of the process from first contact meeting to the delivery of the final report," her report says. "If you have a truth recovery process, why should you need someone to champion your cause. Why should you need someone to go in and fight your corner?"

The HET was initially set up with firewalls between teams of former RUC officers and officers from forces in Great Britain. Dr Lundy says the "whole notion of 'ring fencing' has simply fallen off the edge; according to some senior management it 'was impossible to enforce' in any event and was causing resentment and tensions."

Dr Lundy — whose report has been sent to Lord Eames' and Denis Bradley's Consultative Group on the Past — said Northern Ireland needs a "fresh approach. The PSNI are way ahead in many ways. Hugh Orde has made a significant contribution. In terms of transitional justice, it's absolutely fascinating," she said.

"They were extremely open and welcoming. I think it's absolutely to their credit."

"I think the way we can advance this is to make it independent. For me a truly independent HET-type process would be completely out of policing, would be more internationalised and more civilianised."

A PSNI statement said the HET "was established to address the issue of historical murders in Northern Ireland.

"We will look closely at the comments made in the report by Dr Lundy. Some of her research is now outdated and some of the issues raised have been addressed in the normal process of evaluation and improvement. However the litmus test remains the experience of families who have gone through the process."

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