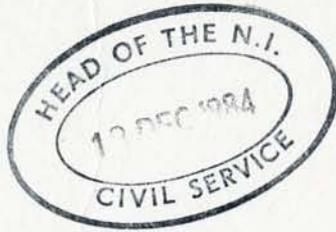


E.R.

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cc PS/Secretary of State (B&L) -M
PS/Mr Scott (B&L) -M
PS/PUS (B&L)
~~PS/Mr Bloomfield~~ ^M *add is/1*
Mr Brennan -M

MR BUXTON

Mr Burns -M
Mr Merifield
Mr Coulson
Mr Lyon -M

2 SEC/8

THE DEATH OF MRS McCABE

I attach for consideration and further action the report on the death of Mrs McCabe which the Chief Constable delivered to the Secretary of State at SPM today.

J. Bourn
pp. J B BOURN
DUS(B)
17 December 1984

SUBJECT: DEATH OF MRS NORAH McCABE, 31 YEARS, HOUSEWIFE,
13 LINDEN STREET, BELFAST ON 9 JULY 1981

Briefly the facts surrounding the death of Mrs Norah McCabe are as follows:-

On the morning of Wednesday 8 July 1981, IRA hunger striker, Joseph McDonnell, a native of West Belfast, died in the Maze Prison. The news of his death became known in that area around 6.30 am and provoked immediate widespread disorder with police mobile patrols being attacked by mobs using petrol bombs and bottles. This activity was particularly intense in streets adjoining the Falls Road near the 'H' Block Information Office which is adjacent to Linden Street.

At 7.50 am that morning Ambulance Control received a call requesting that an ambulance be sent to Linden Street. On arrival there at 7.55 am the driver of the ambulance saw a female lying face downward on the footpath of Linden Street about fifteen feet from the junction with Falls Road. She was unconscious and was conveyed to the Royal Victoria Hospital where she died the following day without having regained consciousness.

Police at Springfield Road RUC Station became aware later on 8 July 1981 that a female had been admitted to the RVH suffering from severe head injuries but there was no evidence as to how or precisely where she sustained these. Following a report in the Irish News on 9 July 1981 that the female, identified as Norah McCabe had been struck on the head by a plastic baton round fired by police at a time when there was no rioting, a full CID investigation was mounted.

Upon learning that Mrs McCabe had died police requested an immediate post mortem examination and this was performed at 3.30 pm on 9 July 1981. The

pathologist established that death was due to a skull fracture with associated brain laceration caused by the deceased having been struck behind the left ear by a circular blunt object about 3½ cm in diameter. In the pathologist's opinion this injury was in every way consistent with having been caused by a plastic baton round of the type used by Security Forces.

CID were at a disadvantage in that the location of the incident was not immediately known therefore the scene could not be preserved.

There was a complete lack of co-operation from the husband of the deceased and his solicitor Mr Finnucane throughout the investigation therefore CID were denied access to potential eye-witnesses who would have contacted either of these men. Enquiries did however establish the identities of four potential female witnesses, two of whom made statements to the police. The other two, despite the best efforts of the investigations, declined to offer any assistance. The two witnesses who made statements contradicted each other as to which direction the police vehicle from which the fatal plastic baton round was fired approached Linden Street. However, both agreed that Mrs McCabe was in Linden Street when she was struck and that the shot came from an opening in the side of a police landrover which had stopped at the Falls Road/Linden Street junction. A second landrover was on the Falls Road behind the one which stopped at Linden Street. After the shot was fired both landrovers drove away from Linden Street along the Falls Road in the direction of Springfield Road.

Because of the public disorder expected following the announcement of the death of the hunger striker extra police mobile patrols were operating in

the Falls Road area. Police strategy during the Hunger Strike period was to contain public disorder in the Republican areas and keep arterial routes open by strong patrols. The Falls Road is an arterial route. At 6.40 am on 8 July 1981 the Divisional Commander of 'B' Division, Chief Superintendent Crutchley, took direct personal control of police operations in the division and joined a landrover crew of a two landrover patrol operating in the Falls Road.

Civil unrest continued throughout the day. Police and army patrols came under sporadic attacks by rioters from 0700 hours on 8 July 1981 until 0100 hours on 9 July 1981. A synopsis of incidents for the period is as follows:-

Shootings (10 by terrorists)	-	11
Shots heard	-	5
RUC injured	-	8
Army injured	-	3
Petrol bombers shot dead (by Army)	-	1
Rioters treated for injuries at Hospital	-	5
Vehicles hijacked	-	20
Vehicles burned	-	14
Arrests (at time)	-	2

All police who were on duty at the relevant time in Springfield Road Sub-Division were interviewed by the CID investigators and statements obtained.

From a scrutiny of all available evidence it was deduced that the patrol involved was the two landrovers commanded by Chief Superintendent Crutchley, he being in the lead vehicle at the relevant time.

Detailed accounts by the police travelling in these two vehicles give a graphic picture of the events of that morning on the Falls Road. Each discharge of a baton round was accounted for and only one, fired on the order of the Chief Superintendent by a member in the rear of the vehicle in which he was travelling, was discharged to the right of the vehicle in the vicinity of Linden Street.

The account of that discharge is that it occurred at the junction of Falls Road/Clonard Street and was aimed at two youths with petrol bombs who were running along Clonard Street towards the landrover.

Although there is no precise evidence as to the exact time of this discharge there is little doubt it occurred around 7.30 am.

The junction of Clonard Street/Falls Road is 30 yards on the City side of the Linden Street/Falls Road junction.

Despite searching enquiries it was not possible to obtain any further evidence. It was therefore accepted that the only plastic baton round which could have caused Mrs McCabe's death was the one fired from Mr Crutchley's landrover. The evidence as to the firing of that round indicated that it was discharged in circumstances which justified that action.

A police report of the death and the investigation was forwarded to the DPP on 5.11.1981 and on 4.12.81 the following direction was received from the Department of the DPP:-

"Chief Constable

Direction

The evidence of Ellen Karen McLennan and Jean Janet Mooney is to the effect that Mrs McCabe was injured and died because a baton round was discharged at or towards her from close quarters, either with intent to strike her or with grossly reckless disregard for the risk of injury to her or her companion.

While the police evidence does not satisfactorily identify and thus does not conclusively describe what incident it was that resulted in Mrs McCabe being injured, no incident such as that described by McLennan and Mooney is admitted and such is in effect denied by the police who have been identified as having been in the vicinity.

The evidence is insufficient to warrant criminal proceedings against any person.

I direct no prosecution."

On 19 November 1982 an Inquest was opened at Belfast Coroners Court into the death of Norah McCabe. Mr Finnucane, Solicitor of her next of kin, told the court of the existence of a video tape which was relevant to the issue. The inquest was adjourned for further enquiries to be made.

On 3 December 1982 a further direction was received from the Director of Public Prosecutions:-

"Chief Constable

Direction

A film of possible relevance to the issues in this file was handed to Superintendent Nesbitt by Mr Finucane, Solicitor, at this office on 26 November 1982. On 28 November a member of staff of this office viewed the film at a showing arranged by police.

It appears to the Director that in the light of information provided by and concerning the film it is necessary or appropriate that further police investigations should be undertaken.

The investigations to be pursued should in particular cover the following matters:

1. Proof of the film. Obtain statements from the person or persons who took the film. Such statements should cover not only the activities concerned with recording the film but what the witnesses themselves saw and can recall. Where and by whom was the film processed? What evidence is there as to the timing and sequence of events depicted by the film?
2. Comparison of what is shown in the film with witness statements already recorded and assessment prima facie of the corroborative or contradictory effect of the film, if any.
3. Assessment, so far as possible, of the position of the leading police vehicle, as depicted by the film -

- (a) immediately prior to its pulling across the Falls Road in the Clonard Street/Linden Street area;
- (b) when it stopped momentarily; and
- (c) when it resumed travel along the Falls Road after (a) and (b).

If "stills" can be obtained from the film what assistance if any do they offer? Obtain stills as necessary.

- 4. Obtain or prepare a large scale map or maps showing the Falls Road from the vicinity of Leeson Street to the vicinity of Linden Street.

NOTE: While investigations should as indicated ascertain what proofs are available to establish the authenticity and admissibility of the film an interim report should be furnished if the interviewing of witnesses delays or is likely to delay completion of police investigations.

A report should in any event be furnished to the Director by not later than 1 February 1983."

D/Superintendent Entwistle, CID, was directed to carry out the necessary investigation and forward a report.

The film was made by a two-man team of free-lance amateur cameramen from Canada who were in Belfast at the relevant time to obtain fact and film for a "documentary" to be shown to American and Canadian audiences.

Apart from proving the validity of the film and giving eye witness accounts about what was happening generally in the vicinity of Falls Road/Sevastopol Street junction, which is 150 yards from Linden Street, at the relevant time they were unable to provide any direct evidence about the death of Mrs McCabe.

The film supports the generality of the statements of the police but does not show the degree of disorder on the main Falls Road as described by the police. It must be remembered however that the camera position did not give a view of the streets adjoining the Falls Road where crowds had gathered.

It is clear from the film that the leading landrover turns sharply to the right and stops momentarily, an explosion is heard and white smoke is seen at the right hand side of the vehicle.

From measurements taken by the Superintendent based on fixed points shown on the film this incident occurred at Linden Street.

The Angle at which the vehicle stopped would facilitate the discharge of a baton round towards the junction of Falls Road/Clonard Street. Such angle would be less advantageous to a person discharging a weapon into Linden Street.

No evidence is forthcoming to prove that the firer deliberately discharged the weapon at Mrs McCabe. The sudden change in direction of the vehicle

and its abrupt stop may have contributed to the weapon being discharged inadvertently in the wrong direction but there is no proof of this.

Whereas in a Civil Suit the balance of probabilities may lead to a finding, in criminal proceedings strict proof is necessary. No such proof has been discovered in this further investigation.

The result of the investigation was reported to the DPP on 21.3.83 and on 15.3.83 the following direction was received:-

"Chief Constable

Direction

I direct no prosecution.

There is no reason why the inquest may not now continue."

The Inquest on the death of Mrs McCabe was concluded on 4.11.83. The Jury found that the deceased, whilst standing at Linden Street on 8 July 1981 was struck by a plastic baton round. She died later at the RVH Belfast as a result of a head injury caused by a baton round.

The Jury found there was no evidence available to indicate that the deceased was other than an innocent person, notwithstanding that at the time of her injury, the police were being attacked by missiles from rioters in that area. After watching the Canadian film the Jury stated that they saw no visual evidence of petrol bombers at Linden Street at the relevant time.

The Independent Television programme about the death of Mrs Norah McCabe did not contain any evidence which was not already known to the investigators and the Director of Public Prosecutions.

No new evidence has been forthcoming as a result of that programme.

Comment by Detective Superintendent Entwistle

The video film presented to the DPP by Mr Finnucane and recently shown on TV excluded the portion which gave a true picture of what was happening in the relevant area of Falls Road just prior to the discharge of the fatal baton round. At that stage many adult rioters are to be seen overturning two hijacked vehicles - one at Falls/Spinner Street and the other at Falls/Lower Clonard Street.

It cannot be seriously considered that police deliberately discharged a baton round at Mrs McCabe. By all accounts she was only a few yards from the landrover concerned and if Mr Crutchley and the others were concentrating on her they would no doubt have seen her being struck and fall to the ground.

The disclosure as to the existence of the video was not declared until all police had given evidence at the first Inquest.

The main civilian witness claims that the landrover drove into Linden Street. This is not so. Whilst the video shows that the leading landrover drove towards the mouth of Linden Street it is clear that it did not enter that street. Without having to reverse or mount the footpath the vehicle was able to resume its travel on Falls Road towards Springfield Road.

Certainly a right handed person, seated in the offside rear of a landrover^{with its side seating would} find it easier to fire at right angles or to the rear rather than towards the front of the vehicle - thus the sudden turn to the right. This manoeuvre would also enable Mr Crutchley to observe Clonard Street.

It must be remembered that rear passengers in a Hotspur landrover have a very limited view of their surroundings and it is a known fact that they can become disorientated after extensive driving around a restricted portion of an urban area. The firing aperture in the side of the vehicle is approximately five inches square so accuracy is always difficult from a vehicle.

Even the driver and observer have a limited view. The fortified glass is not terribly clear and in addition, when stoning is anticipated a protective metal grid is raised over the window.

One of the weaknesses in one case is that the firer claims a possible hit and suggests that the petrol bomber appeared to stumble as a result of the impact.