

MADDEN & FINUCANE

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1 September, 2003

Our Ref: JR/26088/FJS

Gordon Dickinson
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Bloody Sunday Inquiry
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Dear Gordon

SOLDIER CALLS / READS

Further to your letter of 18 August inviting submissions to have Soldier 036, Soldier 219 and INQ 1970 to give oral evidence before the Tribunal, we would have the following submissions to make:

Soldier 036

We refer to the above soldier in respect of whom the parties are in possession of a statement dated 4th February 1972 and a transcript of questioning by Mr Tate dated 13th December 1999.

Soldier 036 was:

- (a) a member of Anti-Tank Platoon and present in Derry on Bloody Sunday;
 - (b) the driver of the vehicle in which it appears almost certain soldiers F and G travelled into the Bogside;
 - (c) the driver of the vehicle in which the radio operator Soldier 147 travelled;
 - (d) an eyewitness to the numbers and activities of people on Rossville Street and at the rubble barricade both as the Anti-Tank Platoon moved in to the Bogside and while they were parked there;
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- (e) apparently an eyewitness to the incident in which F and G say they returned fire at a gunman in the Rossville Flats after their return from the Glenfada Park area and;
- (f) one of five soldiers (the others are F, G, 147 and 018) to have given an account of this incident in 1972. The Tribunal is aware of the comments made by Soldier 018 about the statement taken from him by the RMP in respect of this incident.

For these reasons alone we submit that Soldier 036 is an important witness and should be called to give oral evidence before the Tribunal. However, in addition to the matters outlined above there are a number of other matters of importance that Soldier 036 should be asked to give oral evidence about namely:

- (a) The incident where he is alleged to have shot a waiter in a Chinese restaurant in Bangor, later handing the gun used to Soldiers F and G who, together with an armourer, are alleged to have successfully covered up the incident and;
- (b) The “Divis Street” incident described by Soldier 027 which it appears involved Mr Creagh and Mr Muldoon, it happened a matter of days after Bloody Sunday and is alleged to have involved Soldiers F, G and H and Lt 119. Soldier 036 is alleged to have driven them on that evening.

The further exploration of these incidents while it may not be appropriate with all witnesses, as the Tribunal has ruled on occasion, is important in respect of this witness who is alleged to have been *directly* involved in both and therefore should at least be able to answer questions and give *direct* evidence as to whether they took place and as to his own role and those of Soldiers F, G and others.

For these reasons we submit that Soldier 036 should be called to give evidence before the Tribunal.

Soldier 219

In our submission Soldier 219 should be called for the following reasons:

1. At paragraphs 15 and 16 of his statement, Soldier 219 describes the Humber APC ambulance having come under fire, from Glenfada Park. The issue of whether civilians were involved in firing from the area of Glenfada Park is an issue of intense controversy in the context of this Inquiry. This evidence is disputed by
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our clients and we wish to question Soldier 219 about this issue.

2. Soldier 219 gives evidence about medical records held by soldiers. He should be in a position to give some evidence about the policy within the military as regards retention of medical records and whether the medical records relating to Soldiers R and T would have been retained after Bloody Sunday. This is an issue which we would wish to explore further with Soldier 219.
3. Soldier 219 gives evidence at paragraph 29 about members of 1 Para and lawyers putting words into soldiers mouths in preparation for the Widgery Inquiry. This is clearly an important issue on which this soldier will need to be questioned, given the conflict of evidence on this issue and the should assist in evaluating the weight to be attached by the Inquiry to the statements made for the purpose of the Widgery Inquiry and the evidence given by soldiers at the Widgery Inquiry.
4. Soldier 219 has stated at paragraph 30 that it was the general talk within 1 Para that Lieutenant N had difficulty controlling his soldiers. Given the evidence there has been about Lieutenant N's conduct on the day, this evidence is important both in determining the weight to be attached to Lieutenant N's own evidence and the soldiers in his platoon. This is an issue on which we would wish to question soldier 219 further.

Soldier 219 also gives evidence that soldiers boasted about what happened after Bloody Sunday and boasted about the use of buckshee rounds. Again this is an area in respect of which there is substantial dispute and is an issue which we would wish to explore further with Soldier 219.

INQ 1970

We should submit that this witness be called to give oral evidence for the following reasons:

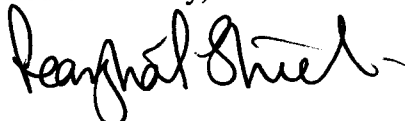
1. He was present at Magilligan the week before Bloody Sunday and can give relevant evidence of events there . Whilst addressing this topic in his statement at **C1970.5 at paragraph 24** he should be called to expand on his observations of this important and controversial event by oral testimony. It is submitted the Inquiry would be assisted by such expansion given the contents of his written statement.
 2. He was the 1 Para Batallion photographer in Derry on Bloody Sunday and was allocated a role on the day under the Operational Order. Although allocated to the
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Presbyterian Church he followed the Battalion Intelligence Officer and was on the face of his statement extremely close to major controversial incidents at the Barriers, the approach to Rossville flats, the flats themselves and at arrests. Such a central location indicates that he would be in a very strong position to expand on his evidence in respect of a number of controversial events in at least two sectors.

3. He should be called to give oral evidence and be questioned on his failure to produce the photograph referred to by him at **C1970.3 at paragraph 16** and the reasons for not doing so.
4. He should be called to clarify his knowledge of the 8th Brigade briefing order for photographers and his instructions for the day.
5. The fate of army photographs and what occurred both at and after the Widgery Tribunal should be further explored with this witness in oral testimony given his evidence in **C1970.8 at paragraph 33**. The fate of his own photographs, the filing system referred to, the re-appearance of some of his photographs in 1974 on display and the retention of his photograph books and files in Northern Ireland are all topics which require further questioning in order to assist the Inquiry to establish the truth on what we submit is an extremely important issue.

We look forward to receiving the Inquiry's decisions in respect of our submissions.

Yours sincerely,



Fearghal Shiels

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Pages:	5 (including this cover page)

MESSAGE: