



News Release

Date of issue: Tuesday 10th November 2015

PPS confirms prosecution against a former soldier to proceed

The Public Prosecution Service (PPS) today (TUESDAY 10th NOVEMBER) confirmed that a decision has been taken to prosecute a former soldier in relation to the death of a man in County Tyrone in 1974.

After a careful consideration of all the available evidence in the case against 74-year-old retired soldier Dennis Hutchings, it has been decided to prosecute him for the attempted murder of John Patrick Cunningham.

Mr Cunningham (27) was shot dead by an Army patrol as he walked close to his home at Carrickaness, Benburb, on 15th June 1974.

A PSNI investigation into Mr Cunningham's death was re-opened after the Director of Public Prosecutions, Barra McGrory QC, requested a fresh examination of the circumstances surrounding the shooting under Section 35 (5) of the Justice (Northern Ireland) Act 2002.

As a result of this new investigation, Mr Hutchings was arrested. He was charged with attempted murder by police in April 2015 while the PPS carried out a full review of all the available evidence in the case.

The PPS confirmed today that its examination of the file is now complete. Prosecutors have decided there is sufficient evidence to prosecute the defendant with the attempted murder of Mr Cunningham.

PPS Assistant Director Michael Agnew said: "The PPS has carried out a careful examination of all of the available evidence and information in this case. We have concluded that there is a reasonable prospect of conviction and that the Test for Prosecution is met. "

ENDS

Notes to Editors:

*Dennis Hutchings first appeared in court in April 2015 when he was charged with the attempted murder of John Patrick Cunningham. This was a holding charge from the

Public Prosecution Service
Belfast Chambers, 93 Chichester Street, Belfast, BT1 3JR

PSNI, who arrested him earlier the same month. The PPS received the full police file in June 2015 and has now completed an examination of all the available evidence in the case.

*The defendant's case is due to be mentioned at Armagh Magistrates Court today (TUESDAY 10th NOVEMBER) at which it will be confirmed the PPS has decided to prosecute him on the charge of attempted murder in relation to the death of Mr Cunningham.

*Mr Cunningham's death was first the subject of a review by the Historical Enquiries Team (HET) after his family made a submission to the Attorney General requesting he direct the Northern Ireland Coroner to hold a new inquest.

*The Attorney General in turn referred the matter to the Director of Public Prosecutions (DPP) Barra McGrory QC, and requested a review of a decision taken by the then Department of Public Prosecutions in 1974 not to prosecute any soldiers in connection with the death of Mr Cunningham.

*After considering the HET report in 2013, Mr McGrory agreed that the case should be reviewed and that the PSNI should carry out further investigations into the circumstances surrounding the shooting.

*Using Section 35 (5) of the Justice (Northern Ireland) Act 2002, the DPP wrote to the PSNI Chief Constable in December 2013 to formally refer the matter for further investigation.

*In every case considered, the PPS takes a decision by applying what is known as the Test for Prosecution. The prosecutor must decide whether there is sufficient evidence to put a person on trial. The Test for Prosecution has two elements. It involves an assessment as to whether the available evidence provides a reasonable prospect of conviction - and also whether prosecution is in the public interest.