



News Release

19th June 2018

PPS CONFIRMS DECISION TO PROSECUTE FORMER SOLDIER OVER 1988 DEATH

The Public Prosecution Service (PPS) has confirmed that a decision has been taken to prosecute a former soldier in relation to the death of a man in County Tyrone in February 1988.

The 48-year-old man is to be prosecuted for the offence of gross negligence manslaughter in connection with the fatal shooting of Mr Aidan McAnespie moments after he passed through an army check point on his way to a Gaelic football match.

The suspect was first charged with Mr McAnespie's manslaughter in 1988. However, these proceedings were withdrawn at Belfast Magistrates' Court in September 1988 after a decision not to prosecute was taken upon the evidence available at that time.

The circumstances of Mr McAnespie's death were the subject of an Historical Enquiries Team (HET) review which reported in 2008, although the matter was not at that stage referred to the PPS for any further consideration.

A PPS spokesperson said the decision to prosecute the former soldier was taken after a review was conducted into the original decision not to bring a prosecution in connection with the 23-year-old's death.

The review commenced in January 2016 after the case was referred to the PPS by the Attorney General for Northern Ireland.

The process considered all of the available evidence including a fresh ballistics report and it has been concluded there is sufficient evidence to prosecute the suspect in connection with the shooting of Mr McAnespie.

The spokesperson said: "Following careful consideration of all the evidence currently available in this case, and having received advice from Senior Counsel, it has been decided to prosecute a former soldier for the offence of gross negligence manslaughter.

"That evidence includes further expert evidence in relation to the circumstances in which the general purpose machine gun was discharged, thereby resulting in the ricochet shot which killed Mr McAnespie.

"The decision to prosecute was reached after the Test for Prosecution was applied to the available evidence in this case in accordance with the Code for Prosecutors."

As criminal proceedings have now commenced, the PPS would ask that there is no reporting, commentary, or sharing of information online which could in any way prejudice these proceedings.

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NOTE TO EDITORS:

1. Gross Negligence Manslaughter

Gross Negligence Manslaughter is an offence at common law, the elements of which are:

- A.) the existence of a duty of care to the deceased;
- B.) a negligent breach of that duty of care;
- C.) it was reasonably foreseeable that the breach of that duty gave rise to a serious and obvious risk of death
- D. the breach of that duty caused the death of the death of the victim; and
- E.) the circumstances of the breach were truly exceptionally bad and so reprehensible as to justify the conclusion that it amounted to gross negligence and required criminal sanction.

2. What is the Test for Prosecution?

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, if it does, whether prosecution is in the public interest. Each of the decisions taken in this case have been conducted in line with the PPS Code for Prosecutors. A copy of the Code can be found [here](#).

3. The Attorney General for Northern Ireland referred the matter to the PPS after his consideration of a request from the family of Aidan McAnespie for a fresh inquest into the circumstances of the shooting.
4. The Department of Public Prosecutions became the Public Prosecution Service in 2005.
5. A court date has not yet been scheduled for the first appearance in this case.

For media enquiries, please contact the PPS Communications Unit on 02890 897187. The out of hours duty media officer can be contacted on 07990 031568.