



FORMER SOLDIER TO BE PROSECUTED FOR DEATH OF TEENAGER IN 1972

The Public Prosecution Service (PPS) has today issued a decision to prosecute a former soldier, identified as Soldier B, for the offence of murder in relation to the death of a teenage boy in 1972, and for a charge of wounding with intent in respect of a second youth.

Fifteen-year-old Daniel Hegarty was shot and killed by a member of an Army patrol on duty in the Creggan area of Londonderry on 31 July 1972, during what was known as 'Operation Motorman'.

Daniel died after being shot twice in the head by Soldier B. His cousin Christopher Hegarty, then aged 17, was also shot and injured in the incident.

The Director of Public Prosecutions for Northern Ireland, Stephen Herron, met with members of the Hegarty family to inform them of the decision at a private meeting in Derry today (Monday April 15, 2019).

Speaking afterwards, the Director said: "Following the ruling of the Divisional Court last year I conducted a review of this case.

"I have given careful consideration to all of the available evidence. This has included material obtained in the course of the initial investigation; by a later investigation carried out by the Historical Enquiries Team; material generated by Inquest proceedings and a number of expert forensic reports, the most recent of which was provided after the Court ruling in 2018.

"I have concluded that the evidence which can be presented at court is sufficient to provide a reasonable prospect of conviction and that the Evidential Test for Prosecution is met.

"As with all cases, I have also carefully considered whether the public interest requires prosecution through the courts. Particular consideration was given to Soldier B's ill health, regarding which an updated medical report was obtained. In line with our Code for Prosecutors, I have concluded, given the seriousness of the charges, that the Public Interest Test for Prosecution is also met.

"I have therefore taken the decision to prosecute an individual identified as Soldier B for the offence of murder in relation to the death of Daniel Hegarty and for the wounding of Christopher Hegarty.

"This decision has been reached following an objective and impartial application of the Test for Prosecution which was conducted in accordance with the Code for Prosecutors and with the benefit of advice from Senior Counsel."

ENDS

NOTES TO EDITORS:

Section 1 – reporting restrictions:

1. As a prosecution will shortly be commenced, the PPS does not intend to make any further comment on this case at this point.
2. The PPS would remind the media and the public that there should be no reporting, commentary or online sharing of information which could in any way prejudice these proceedings.
3. Soldier B's anonymity should be maintained until the issue has been formally ruled upon by the court.

Section 2 – useful references:

4. All decisions by the PPS are taken strictly in accordance with the Test for Prosecution which involves two stages. The Test for Prosecution is met if, in relation to an identifiable suspect, the available evidence is sufficient to provide a reasonable prospect of a conviction (the Evidential Test) and if prosecution is in the public interest (the Public Interest Test). The Evidential Test must be passed first before the Public Interest Test is considered. Further information can be found in the PPS Code for Prosecutors. The PPS takes all of its decisions in accordance with the Code for Prosecutors, which can be found [here](#).
5. What is a review? The PPS Code for Prosecutors allows for a review of a decision not to prosecute, for example, where new evidence or information becomes available or a specific request is made by a person, such as a Coroner or a victim.

A review involves the fresh application of the Test for Prosecution. If there is new or additional evidence this can be done by the Prosecutor who took the previous no prosecution decision. If there is no new or additional evidence a different Prosecutor who had no role in the original decision will conduct the review.

6. Decisions not to prosecute in this case were previously taken in 1973, in 2008 following a review of the case by the PSNI Historical Enquiries Team, and in 2016 following a referral by the Coroner. The 2016 decision not to prosecute was quashed by the Divisional Court in 2018 and a further review was conducted which resulted in the decisions to prosecute that have been announced today.

[Divisional Court Judgment 28 February 2018](#)

[Summary of Judgment 23 May 2018](#)

Section 3 – Legacy cases:

7. Cases where a prosecution decision has been taken.

We have identified 26 cases involving a large number of suspects which can be described as “legacy” in which the PPS has taken prosecutorial decisions since 2011.

Half of all such cases (13) relate to alleged offences involving republican paramilitaries and there have been prosecutions in eight of these. Proceedings are still active in three of these cases. Of the five concluded cases, there were two convictions and two in which proceedings were discontinued, one following the death of the defendant. There was also one acquittal.

Eight of the 26 cases related to alleged loyalist paramilitary activity. There were decisions to prosecute in four of these cases. Convictions have been secured in two cases while two others are currently active.

A further five cases involved a number of former soldiers (22). This has resulted in a decision to prosecute six individuals for a range of serious offences.

The final two cases involved police officers and both resulted in a decision not to prosecute.

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.