

# Statutory Report

Public statement by the Police Ombudsman in accordance with Section 62 of the Police (Northern Ireland) Act 1988.

**Report into the complaint by James and Michael McConville regarding the police investigation into the abduction and murder of their mother Mrs Jean McConville**

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Mrs Jean McConville

August 2006

## **Introduction**

Mrs Jean McConville was a widow with ten children who lived in 1A St Jude's Walk, Divis Flats in West Belfast and was abducted from her home in west Belfast in December 1972 and killed. Mrs McConville's body was found on Shelling Hill Beach, Carlingford County Louth on 26 August 2003.

## **The complaint:**

that the Royal Ulster Constabulary failed to investigate the abduction of Mrs McConville. This complaint is substantiated.

## **The Police Ombudsman's Investigation**

The Police Ombudsman's investigation involved a number of lines of enquiry:

- The investigators sought to establish whether any investigation papers existed at any time in relation to the abduction of Mrs McConville, and to examine any such papers to determine the extent and effectiveness of any investigation;
- Social Services records were examined to determine what was known, and by whom, about the abduction of Mrs McConville and any police actions subsequent to it, because it was known that some of her children were taken into care by Social Services after their mother's abduction;
- The findings of the Inquest conducted by the Coroner from the Republic of Ireland in relation to Mrs McConville's abduction and murder were examined;
- Liaison occurred between the Police Ombudsman's Investigator and An Garda Siochana;

- Intelligence files were examined and enquiries made to establish whether there was any intelligence in relation to Mrs Jean McConville before, at the time of, or after her death;
- Enquiries were made of representatives of the Catholic Church to determine whether they could assist the enquiry.

## **The Findings of the Investigation**

### **The family**

Mrs Jean McConville was an East Belfast Protestant who was married to Arthur McConville, a Catholic and former soldier in the British Army. Mrs McConville converted to Catholicism on her marriage to Arthur. Initially they lived in East Belfast, but, following the outbreak of the Troubles in 1969 they were subjected to sectarian intimidation and violence which eventually forced them to leave their home in East Belfast. They moved into temporary accommodation before settling into the Divis Flats area off the Falls Road in West Belfast. Arthur McConville died in January 1972. Mrs McConville had moved into the home from which she was abducted in the week before her abduction. At the time of her death Mrs McConville's children were Ann aged 20, (Ann was ill in hospital at the time of Mrs McConville's death and has since died), Robert, aged 17, Arthur (Archie) aged 16, Helen aged 15, Agnes aged 13, Michael aged 11, Thomas (Tucker) aged 9. Susan aged 8, and six year old twins William (Billy) and James (Jim).

### **The abduction**

There is no formal record of the abduction of Mrs McConville anywhere. It cannot therefore be established exactly when she disappeared. The family remember her as disappearing the day after she was attacked after having allegedly been taken from a bingo hall on the pretext that her daughter had been in an accident and that she needed to go to the hospital. The family say

that she told them that she had been attacked after leaving the bingo hall and beaten, and that she had been told not to give information to the military.

They remember her coming home in great distress, bruised and dazed. Police records show that on 30 November 1972 a report was received at 02.00 hrs from an army unit stating that at 23.00 hrs on 29 November 1972 a woman had been found wandering in the street. The woman had told them that she had been beaten and told not give information to the army. She was very distressed and the army stated her name was Mary McConville of St Jude's Walk. Jean McConville's mother-in-law was called Mary McConville. It is thought by the family that the woman found by the army may have been Jean McConville, who was asking for her mother-in-law. The following day Mrs McConville was abducted and murdered.

Archie McConville gave evidence to the Coroner at his mother's inquest that,

*“on 7 December I was at home with my mother Jean and the rest of our family at 2 St Jude's Walk, Divis Flats, Belfast. At the time I was 16 years of age. My sister Helen had gone to the chip shop to get chips for us. In the house that evening was my sisters Agnes and Suzanne and my brothers Michael, Billy, Thomas and Jim. I was the eldest child there. At around 6.30 that evening we heard a banging on the door of the flat. I answered the door and 4 masked men and 4 masked women came in. They came into the house and told my mother to put on her coat. We were all in a panic and the children were squealing everywhere. We were afraid of what they were going to do to our mother. They said that she was only being taken for questioning for a few hours. My mother was very upset and I asked if I could go too. They allowed me to go with her. The rest of the children were left in the house on their own. Helen was not back from the chip shop at that stage. When we got to the bottom of the stairs they put guns to my head and told me to F off back up the stairs. At the bottom of the stairs there were about 18 to 20 people, all masked and had guns, They were all casually dressed and had balaclavas. There was a blue minibus there. I think it was Volkswagen and a brown Maxi Cavalier car. I went back up the stairs after being ordered up at gunpoint. I*

*looked out the pigeon-hole from the flats on to the street, and I did not see any of the vehicles going past. I had to get the children quietened down. Helen came back at that stage. We just waited and waited from that night, for years and years and we never saw our mother alive again."*

There is a clear discrepancy between the date of 30 November 1972, when the police were told by the army that they had found a woman in the street on November 29, and the fact that her children say that she was abducted the day after this event, and the fact that the evidence given by one of the children was that she had been abducted on 7 December. However the complainant in this case has said that the children were not clear as to the date on which Mrs McConville was abducted. They had tried to identify the date. There is no official record anywhere to indicate the actual date of her abduction. In these circumstances it cannot be proved that the woman found in the street by the army was Mrs Jean McConville, nor can it be proved or disproved that she was abducted on 7 December 1972. All that can be said is that she was beaten the night before her abduction, and that she was murdered.

One of Mrs McConville's sons stated that he sought advice from a local politician, and was told to report his mother's abduction to the police. This he did within two days at Hastings Street Police Station. He also went to Albert Street Barracks and told the army that "the woman they had picked up the night before had been abducted". On both occasions he was told that the matter would be looked into but nothing happened.

Approximately three weeks after Mrs McConville's abduction a young man called at her home and gave her family her purse and three rings.

The Belfast Telegraph on 16 January 1973 had a front page headline which read "Snatched mother missing a month" The following day, 17 January 1973 the Belfast Telegraph carried on its front page a photograph of the six year old twins Billy and Jim. In the accompanying article a police spokesman stated

that the abduction was being investigated although it had not been reported to police. On 17 January 1973 the 6.30 pm BBC Scene Around Six programme carried an interview with the McConville children in which they can clearly be heard saying that their mother had been taken away.

### **The police response**

The Police Ombudsman investigators have been unable to find any trace of any investigation into Mrs McConville's abduction during the 1970s or 1980s.

The first investigation appears to have taken place in 1995 when a team of RUC detectives was established to review the cases of all those who had disappeared and were thought to have been abducted, including Mrs McConville. The Police Ombudsman's investigators have examined the very limited file created in the course of the 1995 investigation. The Police Ombudsman's investigators sought to speak to all those involved in that investigation.

Officer A has given evidence that he saw an entry in a C6 occurrence book (in which any event which occurred in a police station area and which was reported to police was logged). The entry was dated 30 November 1972 at 2.00 am, and stated that at 23.00 on 29 November the military had found a woman called Mary McConville of 1 St Jude's Walk who had been accosted by a number of men and warned to stop giving information to the military.

Retired Detective Superintendent B who was a Detective Inspector in 1972 in Hastings Street Police Station has stated that as far as he could recall Jean McConville was for a number of years treated as a missing person. The officer has also indicated that because of the situation in Northern Ireland at the time CID enquiries in the Divis Flats area were restricted to the most serious cases.

The review team searched Grosvenor Road and Springfield Road Police Stations for any records in relation to an investigation of Mrs McConville's disappearance. None were found. Hastings Street Police Station and Albert Street Army Barracks have been demolished. Police interviewed four members of the McConville family and subsequently arrested three people. All were subsequently released without charge.

Retired Detective Sergeant E stated that during the enquiry in 1995 several retired police officers who worked in the area in which Mrs McConville disappeared were spoken to. He said that "*none could recall any investigation being carried out and they could not recall the matter being referred to CID.*"

The Senior Investigating Officer who led the review team Chief Inspector C has retired and refused to co-operate with the Police Ombudsman's investigation.

Over the years since her disappearance people have speculated that Mrs McConville may have been abducted because she assisted a soldier who had been shot. However the only soldier shot at this time was Private D who was shot in the thigh by an IRA sniper at the junction of Dunlambert Street and Barrack Street on 15 December 1972 at 13.45. Mrs McConville's children have a memory of her going to the assistance of an injured soldier whom, they say, was shot before their father died in January 1972. They state that he was moaning on a balcony above the flat in which they lived previously, and that Mrs McConville went to his assistance until help arrived. However it is apparent that people in the area were aware of this event, and it may well have caused suspicion about Mrs McConville who was known to have been a Protestant who had converted to Catholicism on her marriage to a Catholic former member of the British Army.



## **The search for Mrs McConville**

Following Mrs McConville's disappearance in 1972 her children searched for her. That search continued for 31 years. The police review in 1995 led to the receipt of information that a body may have been buried in an old grave in West Belfast and the person who had been buried might be Mrs McConville. Scientific tests were carried out at the location which was identified in February 2003, but it was established that "*there was nothing to cause any concern*" and that "*an additional body had not been added to the grave.*" Mrs McConville's body was found on Shelling Hill Beach in August 2003.

## **Social Service Records**

It has been established that social services records in respect of the McConville family were originally created by the Belfast County Welfare Authority, and subsequently by Down and Lisburn Unit of Management prior to the establishment of the Down and Lisburn Health and Social Services Trust. North and West Belfast Health and Social Services Trust were also involved with the children. Mrs McConville's youngest son, Jim, produced to the Police Ombudsman a copy of a Belfast County Welfare Committee "Admission to Care" document dated 16 February 1973 which stated that he was one of six members of the family admitted to care. The report states that

*"Mrs Jean McConville disappeared in the first week of December and has not been heard of since. Unsuccessful attempts were made first to have the children admitted to care , and then to arrange for someone to care for them in their own home. Eventually six members of the family were admitted to care. It is impossible to comment in these circumstances of the possible length of stay in care of these children".*

Michael and Tucker McConville were taken into care on 17 February 1973. One of the forms referring to Tucker, which is dated 8 October 1980 stated

that he was “deserted by mother”. This is incorrect. Mrs McConville was abducted and murdered.

### **The Inquest Findings**

Mrs McConville’s remains were found on Shelling Hill Beach Carlingford on 26 August 2003. They were taken to Louth County Mortuary. The date of Mrs McConville’s death was described as being between 7 and 21 December 1972. A post-mortem examination was carried out by Dr Richard Shepherd on 28 August 2003. He identified the cause of death as a “*firearm wound to the back of the head.*” On 1 September 2003 a second examination was carried out by Dr Marie Cassidy, Deputy State Pathologist. She identified the cause of death as “*a gunshot wound to the head.*” A sample of bone from the body was sent to the Forensic Science Laboratory in Birmingham England together with blood and hair samples from Archie and Agnes McConville. The items were submitted for mitochondrial DNA testing to determine whether or not the body was that of Mrs Jean McConville. The body was formally identified as being that of Mrs Jean McConville on 20 October 2003.

The Coroner sought expert evidence as to the geographical history of the area in which Mrs McConville was found. A Senior Executive Engineer from Louth County Council gave evidence to the inquest in relation to coastal erosion at Shelling Hill Beach. He stated that “*an extreme storm event occurred on 1 February 2002,*” and that it “*washed away part of the carpark and roadway. The high embankment west of the car park was eroded and undermined*” He also stated that at the location at which Mrs McConville’s body was found “*the erosion has lowered the beach by 10” to 12” in recent times.*”

A verdict of “unlawful killing” was delivered by the Coroner for County Louth, Mr Ronan Maguire BL following the Inquest which took place on 5 April 2004.

## **Liaison with An Garda Siochana**

Enquiries were made to determine whether any information was held by An Garda Siochana in relation to Mrs McConville's disappearance. Superintendent M who is the Senior Investigating Officer responsible for the investigation following the discovery of Mrs McConville's remains on Shelling Hill Beach, has said that he is not aware of any investigation into this issue prior to the 2003 investigation. There was no information to assist the Police Ombudsman's enquiry.

## **Information held about Mrs McConville**

The only record intelligence or information held in relation to Mrs McConville is as follows:

- 2 January 1973. On this date two pieces of information were received stating that "it is rumoured that Jean McConville had been abducted by the Provos because she is an informer";
- On 17 January 1973 information states that Mrs McConville was being held by the Provos in Dundalk;
- On 17 January 1973 information was received that Mrs McConville was probably abducted by the Provos on suspicion of drug peddling;
- On 17 January 1973 information was received that a public representative wanted to get the family reunited;
- On 13 March 1973 information was received from the military suggesting that the abduction was an elaborate hoax;

- On 24 March 1973 further information was received from the military stating that the abduction was a hoax, that Mrs McConville had left of her own free will and was known to be safe.
- Following the 1995 review of her case information was received that she had been murdered by the Provisional IRA.

There is no record of her anywhere, other than this information, which followed her abduction. There is no record information or intelligence received by any organisation from her.

### **Enquiries in relation to whether any information was held by representatives of the Catholic Church**

It has been established that the Fr Vincent McKinley, now deceased, was the Parish Priest of the parish of St Peter's Pro-Cathedral, in which Mrs McConville lived. His curate, who lived in the parish from 1969–1976 has no recollection of any church involvement in the issue.

### **The Provisional IRA statement of justification for the abduction and murder of Mrs Jean McConville**

The Provisional IRA (PIRA) claimed for many years that they did not abduct and murder Mrs McConville. In March 1999 the PIRA admitted that they had killed a number of people, including Mrs McConville and alleged that some of them had been informants. The PIRA have consistently stated since that date that Mrs McConville was abducted because she was an informant.

## **The use of informants by police, army and security services across the world**

Informants are used by virtually every arm of the security forces and services across the world. Their function is to provide information from within a community to help prevent crime and to detect and make amenable those responsible for crime which has occurred.

The Provisional IRA has over the years murdered a number of people on the basis that they were informants to the British. Normally the bodies of those so murdered were left in country lanes and other public places as a warning to others not to act as informants.

### **The situation of Mrs Jean McConville**

The United Kingdom Government has a general policy that there can be no confirmation or denial of whether an individual was or is an informant.

The issue of whether, and in what circumstances, it is appropriate to depart from that policy and to issue a denial that a person was an informant was considered by the High Court in a case called “In the matter of an application by Freddie Scappaticci for Judicial Review” in August 2003. In his judgement Carswell LCJ described that Government policy (commonly called the NCND [neither confirm nor deny] policy) as it was articulated to him in affidavit evidence by the Permanent Under Secretary at the Northern Ireland Office. The Permanent Under Secretary had stated,

*“the identity of agents is neither confirmed nor denied as*

- *to confirm that a person is an agent would place that person in immediate and obvious danger;*

- *to deny that a person is an agent may place another person in immediate and obvious danger; and*
- *to comment either way in one case raises a clear inference [if] the Government refuses to comment in another case that it has something to hide in that case, ie the inference will be that the individual is an agent and may be subject to reprisals ( and his life may be at risk) as a result”.*

Carswell LCJ went on to quote the Permanent Under Secretary as saying that

*“It has been accepted within Government that the policy [not to confirm or deny the identity of an agent] does not automatically trump every request for a comment on the identity of agents: it may be departed from in a particular case if there is an overriding reason to do so...”*

The Permanent Under Secretary also went on to say that the Government was of the view that the policy should not be departed from *“in anything other than the most exceptional circumstances”*

In addressing the application before him the Lord Chief Justice talked about the fact that *“the Minister can depart from the NCND policy .. if there is good reason to do so to meet the circumstances of the individual circumstances of the Applicant’s case.”*

He went on to say that *“A decision maker exercising public functions who is entrusted with a discretion may not, by the adoption of a fixed policy, disable himself from exercising his discretion in individual cases.”*

I am of the view that the circumstances of the McConville family are most exceptional and that there are overriding reasons to depart from the normal policy

- Mrs McConville has been dead for almost 34 years – there is no question of any threat to her life. She was deprived of her life by murderers in 1972;
- There is no immediate and obvious danger to the life of any other individual consequential upon making statement as to whether Mrs McConville was an agent.
- Mrs McConville's disappearance was ignored by the police for twenty three years and no proper investigation was ever conducted. She left an orphaned family of ten children, the youngest of whom were six year old boys. That family has suffered extensively because of the allegation that their mother was an informant. This situation is unique.

## **Conclusion**

On the balance of probabilities I am satisfied that no investigation took place until 1995 into the disappearance of Mrs McConville. There is no evidence that Mrs McConville's disappearance resulted in any significant response by the Royal Ulster Constabulary. Police have stated that *"There isn't a crime file that relates to Jean McConville's abduction. There does not appear to have been an investigation"*;

It is clear from the files that police were aware by 2 January 1973 that Mrs McConville had disappeared. No action was taken in respect of the information received by police about Mrs McConville's abduction.

The children received no real help for a period of almost two months after Mrs McConville was abducted until February 1973 when some of the children were taken into care.

Over the years the McConville family have suffered significantly following the loss of their mother, and the fact that her abduction was not investigated. They have suffered also because, their father having died ten months previously, the family was split up and did not grow up together. The years following her abduction were extremely difficult for the children as they grew to adulthood. They have also suffered because their mother's body was not found until 26 August 2003, despite extensive searches.

There is no evidence information or intelligence of any kind which refers to or emanated from Mrs Jean McConville prior to 2 January 1973. She is not recorded as having been an agent at any time. She was an innocent woman who was abducted and murdered.

Mrs Nuala O'Loan  
Police Ombudsman for Northern Ireland  
18 July 2006



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