

Twenty-Fourth Report of the Independent Monitoring Commission

Presented to Parliament pursuant to the Northern
Ireland (Monitoring Commission etc.) Act 2003

*Ordered by the House of Commons to be printed on
15 September 2010*

TWENTY-FOURTH REPORT OF THE INDEPENDENT MONITORING COMMISSION

**Presented to Parliament pursuant to the Northern Ireland (Monitoring
Commission etc.) Act 2003**

**Presented to the Government of the United Kingdom and the
Government of Ireland under Articles 4 and 7 of the International
Agreement establishing the Independent Monitoring Commission**

**Ordered by the House of Commons to be printed on
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INTRODUCTION

1. We submit this report on the murder of Bobby Moffett in Belfast on 28 May 2010 under the powers available to us in Articles 4 and 7 of the International Agreement establishing the Independent Monitoring Commission. Article 4(c) enables us to submit reports to the British and Irish Governments on an ad hoc basis if we see fit to do so. This is the third occasion on which we have exercised these powers on our own initiative¹.
2. We will submit a further full report on paramilitary activity in October 2010, in the normal way six months after our previous one².

OUR APPROACH

3. We believe that this report is necessary for a number of reasons. Given what we believe to have been the involvement of the Ulster Volunteer Force (UVF), as we describe below, the murder represents a serious backward step after a period when all the paramilitary groups other than the dissident republicans had moved decisively away from violence. The murder also has potential implications for the Progressive Unionist Party (PUP) and for the role which the UVF will play or believes it is entitled to play in future, and so possibly for the lives and safety of people, including those associated with the organisation as Mr Moffett was. We do not think that these issues should await our next full report, which the two Governments will not be able to publish before November 2010³.
4. We are necessarily constrained in what we can say because of the possibility of criminal proceedings, whether against those already arrested in connection with the murder or others. We are determined to do nothing which might

¹ The first ad hoc report on our initiative was on the robbery at the headquarters of the Northern Bank in Belfast in December 2004: IMC Fourth Report, February 2005. Our second such ad hoc report was on the feud between the UVF and the LVF in the spring and summer of 2005: IMC Sixth Report, September 2005.

² IMC Twenty-Third Report, May 2010. The footnote on page 4 of that Report lists all our reports on paramilitary activity.

³ There were other incidents on which we might have presented an ad hoc report but for the fact that the publication of one of our regular reports enabled us to make an early comment.

hinder justice being done. We are also required to avoid saying anything potentially prejudicial⁴.

THE MURDER

The Killing

5. Mr Moffett was shot at point blank range at the corner of the Shankill Road and Conway Street, Belfast, on Friday 28 May 2010. Two masked men wearing high visibility jackets approached Mr Moffett from behind. They shot him once, causing him to fall to the ground where they shot him twice more. The gunmen escaped on foot along Conway Street, we believe to a waiting getaway vehicle. The murder took place at approximately 1pm in front of a large number of passers-by, amongst them young children. Mr Moffett died later in hospital.
6. The PSNI have made a number of arrests in connection with the murder.

The Context of the Killing

7. Mr Moffett was aged forty-three at the time of his death. He had been associated with both the UVF and the Red Hand Commando and had been convicted of two robbery offences in 1991 and 1995 for which he had been sentenced to a total of thirteen years in prison.
8. There had been tension for some years between senior members of the UVF and Mr Moffett and his family. An element in this tension was, we believe, the alleged anti-social conduct of one particular member of the family. This person had been very seriously assaulted and other family members had been intimidated, we believe by members of the UVF. In the period shortly before his death Mr Moffett himself had approached the local UVF commander to challenge this action. We believe he had recently visited the commander's home and had caused substantial damage to his car.

⁴ The British and Irish governing legislation and Article 13(2)(iii) of the International Agreement require that we do nothing "which might...have a prejudicial effect on any proceedings which have, or are likely to be, commenced in a court of law". Article 13(2)(ii) requires the IMC not to do anything which might risk the life or safety of any person.

OUR CONCLUSIONS ON RESPONSIBILITY FOR THE MURDER

9. We believe that the tension between the UVF and Mr Moffett and his family, and particularly Mr Moffett's recent action, precipitated the murder. He had behaved in ways which, in the eyes of the UVF, appeared to disregard the standing of the organisation, and he threatened some leading local figures in particular. Killing Mr Moffett was a way of dealing with the perceived threat.
10. The key to a proper understanding lies in the nature of the UVF. It should be remembered that during the Troubles it was a very violent organisation which killed over five hundred people. Only Provisional IRA (PIRA) killed more. As recently as 2004 and 2005 it murdered five people it perceived to be members or associates of the Loyalist Volunteer Force (LVF)⁵.
11. We said in our First Report six and a half years ago that the UVF had a centralised command structure and that its decision making was normally coherent⁶. We have echoed that view since then, including in our most recent reports⁷. The organisation has a central command and a number of separate so-called local brigades in Belfast and elsewhere in Northern Ireland. At both the central and the local brigade level responsibilities are allocated on a functional basis amongst the leading figures. We believe that each local brigade has autonomy for day-to-day matters. We also believe that an individual brigade would not take action likely adversely to affect the organisation as a whole in a significant way without at least covering sanction from the centre. The killing in broad daylight on a busy street of a man well known in the local community, when the organisation had for three years been implementing a publicly declared strategy to renounce violence and turn itself from a military organisation into a civilian one, is, in our view, clearly such an action. That is to say, such a decision would be expected to require sanction from the centre.

⁵ See IMC Sixth Report, September 2005; this was the second ad hoc report we presented on our own initiative.

⁶ IMC First Report, April 2004, paragraph 3.26.

⁷ (i) IMC Twenty-Second Report, November 2009, paragraph 2.51, where we referred to the then recent decommissioning of weapons as being "clear evidence of the organisational coherence and strategic direction to which we had referred in the past."; (ii) IMC Twenty-Third Report, May 2010, paragraph 2.46, where we said "The leadership is cohesive."

12. We believe that there may be a further dimension. An associate of the organisation who was flouting its authority, or threatening or taunting senior figures beyond their endurance, could have been killed in ways which were far less prominent. But the method chosen was “public execution” in the heart of one of the areas from which the UVF draws its strength. We believe that in addition to removing the challenge Mr Moffett was seen by some to present, the purpose was to send a message to the organisation and the community that the leadership of the UVF was robust and was not prepared to have its authority flouted.

13. From this analysis and from our extensive enquiries we conclude that:

- The murder was committed by members of the UVF acting as such;
- These members had sanction at central leadership level. The fact that there was no subsequent condemnation of the killing by the leadership means that the UVF has in effect adopted the consequences of the murder;
- There were two main reasons for the murder and the way in which it was committed: to stop Mr Moffett’s perceived flouting of UVF authority, and to send a message to the organisation and the community that this authority was not to be challenged;
- Senior leadership in the UVF could have prevented the murder had it determined to do so.

Mr Moffett died because others had more regard for their own standing and that of the UVF than they did for his life or for the political consequences for the organisation and more particularly for the PUP.

OUR CONCLUSIONS ON WHAT THE MURDER MEANS FOR THE UVF

14. In May 2007 the UVF issued a statement in which it said that it would renounce violence and transform itself from a military into a civilian organisation. In particular:
- Paramilitary activity such as recruitment, training and targeting would stop;
 - So-called active service units would be stood down and the organisation would be down-sized;
 - The involvement of members in crime would be in contravention of the “command” of the leadership.

In our first subsequent report we described the statement as a major turning point for the UVF⁸.

15. In our ensuing reports we monitored the implementation of this new strategy⁹. We expressed growing confidence that the leadership of the organisation, about which we used the adjective “cohesive”, wanted to pursue the strategy set out in the statement and we referred to efforts made to reduce the size of the organisation and to wean members away from criminality. But progress was not by any means even or rapid. Some members remained heavily involved in crime. It was over two years before the UVF decommissioned weapons, though we said that we could not rule out that some arms had been retained in some parts of the organisation – as this murder suggests was indeed the case¹⁰.
16. Overall, in the three years since the statement we were confident that the leadership would continue to pursue its strategy. We believed that it had both the will and the capacity to make the necessary changes, albeit sometimes

⁸ IMC Seventeenth Report, November 2007, paragraphs 2.26-2.29.

⁹ IMC Eighteenth Report, May 2008, paragraphs 2.32-2.36; IMC Twentieth Report, November 2008, paragraphs 2.36-2.39; IMC Twenty-First Report, May 2009, paragraphs 2.41-2.44; IMC Twenty-Second Report, November 2009, paragraphs 2.49-2.54; and IMC Twenty-Third Report, May 2010, paragraphs 2.45-2.48.

¹⁰ IMC Twenty-Second Report, November 2009, paragraph 2.53. See also the Report of the Independent International Commission on Decommissioning, September 2009.

falteringly, and to face the internal challenges. From an early stage after we were first set up we referred to the process whereby paramilitary organisations moved away from their violent pasts as being inevitably messy; we did not expect the UVF to be any different. We also recognised with the UVF, as we had previously with PIRA, that the leadership needed to remain in position to guide this process. The most recent example of the strength of the leadership – indeed, of a commendable determination to move on from violence and sectarian conflict - was the tight rein it kept during the 2010 parades season, particularly around 12 July; this was an important positive contribution. But when it abuses its power, as it did with this murder, such leadership cannot expect to escape either responsibility or criticism.

17. This makes the conclusions we draw above about the murder of Mr Moffett all the more disappointing. The murder does not blind us to the progress the UVF has made hitherto or of itself mean that the process will be reversed. But it does call into question the reference in the May 2007 statement to becoming a civilian organisation and shows that when faced with what it saw as a challenge to its standing and authority, the organisation reverted to physical force. The instincts learnt during the Troubles once again guided the organisation. The murder thus also casts some doubt on what we said a year ago about seeing an organisation “on its way to going out of business as a paramilitary organisation”¹¹. This was the action of an organisation which, when put under pressure, failed to throw off its violent propensities.
18. We are aware of the view that the murder was the result of particular circumstances and will not be repeated. But we are bound to view with scepticism the suggestion that there could never again be a reversion to old ways of settling scores or demonstrating control. If this murder is to mark the end of the use of physical force it will require a more profound change of culture and attitude by the leadership and the organisation. It remains to be seen whether the UVF leadership is slipping back from, or will press ahead with, the full implementation of the May 2007 strategy.

¹¹ IMC Twenty-Second Report, November 2009, paragraph 2.51.

OUR CONCLUSIONS ON OTHER IMPLICATIONS OF THE MURDER

Specification of the UVF¹²

19. The Secretary of State specified the UVF in September 2005 following our report on the UVF/LVF feud of 2004 and 2005 during which the UVF murdered five people.¹³ From then until the UVF's May 2007 statement there had been no question in our mind that the UVF should remain specified. The UVF statement changed things and a year later we concluded that the progress made to implement it was such that we should invite the British Government to revisit the question of the UVF's despecification¹⁴. A fortnight after the publication of that report the Secretary of State announced that he would de-specify the UVF and the change was implemented in July 2008.
20. The role of the UVF in the murder of Mr Moffett inevitably raises the question of whether we should invite the Secretary of State to consider reversing that decision. We have given careful thought to this. There are some questions about whether the particular circumstances of this murder are of themselves a proper legal justification for specification. In addition, the progress we have been able to report since the May 2007 statement, in particular the decommissioning of weapons, has been considerable. We still believe that the leadership of the organisation wants to pursue the 2007 strategy, notwithstanding what we say above about a reversion to old ways on this occasion and the questions this raises about whether the UVF is gradually going out of business as a paramilitary organisation.
21. Our conclusion is that, extremely serious though this murder clearly is, we are not in a position to recommend at this stage that the Secretary of State reconsiders specification. We will keep the matter under close review and will return to it in our next full report on paramilitary activity in some two months time. As previously, we will not hesitate to recommend that the UVF

¹² Specification relates to the arrangements for the early release of prisoners which were brought into force following the Belfast Agreement of 1998. The Northern Ireland (Sentences) Act of that year made prisoners eligible for early release so long as a number of conditions were met. Key among these were that the person was not a member of a specified organisation and, if released, was not likely to become a supporter of one.

¹³ IMC Sixth Report, September 2005.

¹⁴ IMC Eighteenth Report, May 2008, paragraphs 2.32-2.36.

should be re-specified if we judge this to be the correct course of action in accordance with the legislation.

The Position of the Progressive Unionist Party

22. We have commented over the past three years on the role of leadership and on the positive contribution of the PUP in encouraging the UVF to move forward¹⁵. There was strong public condemnation of the murder by members of the party. We also note the decision of the leader of the party, Dawn Purvis MLA, to resign both her leadership and her membership of the party in protest at the action of the UVF, and that other leading figures have taken the same course. It was clear from Ms Purvis's statement that she felt that to do otherwise, and in particular to continue the PUP/UVF association, would mean that she would share the odium appropriate to the UVF's involvement in this murder.

23. We note that the PUP will be holding a party conference in October 2010 and we will look carefully at how they address the implications of the murder of Mr Moffett.

OUR TWENTY- FIFTH REPORT

24. We will submit our next full report on the activity of all paramilitary groups to the two Governments at the end of October 2010. We will make a further assessment of the UVF in that report.

¹⁵ See IMC Fifteenth Report, April 2007, paragraphs 4.7-4.8; IMC Seventeenth Report, November 2007, paragraphs 4.9-4.10; IMC Eighteenth Report, May 2008, paragraphs 5.6-5.7; IMC Twentieth Report, November 2008, paragraphs 4.5-4.6; IMC Twenty-First Report, May 2009, paragraphs 4.5-4.6; IMC Twenty-Second Report, November 2009, paragraphs 4.5-4.6; and IMC Twenty-Third Report, May 2010, paragraphs 4.5-4.6.



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