



Investigation into the collapse of the R v ‘Mouncher and others’ 2011 Trial

Terms of Reference

1. Purpose of Investigation

1.1 Stephen Miller, John and Ronald Actie, Yusef Abdullahi and Anthony Paris were wrongfully prosecuted, and stood trial in 1990, for the murder of Lynette White in 1988. Stephen Miller, Yusef Abdullahi and Anthony Paris were convicted and sentenced to life imprisonment, whilst John and Ronald Actie were acquitted. Ronald Actie and Yusef Abdullahi are deceased. The three remaining victims of the miscarriage of justice, Stephen Miller, John Actie and Anthony Paris, are the claimants in this case.

1.2 The 2011 trial (*R v ‘Mouncher and others’*) of police officers who were charged with perverting the course of justice relating to the 1990 convictions collapsed. The Leading Counsel for the Crown indicated that “the prosecution can no longer sustain a position maintaining that the Court and the Defendants can have the required confidence in the disclosure process” and formally offered no further evidence, inviting the Court to direct the jury to return not guilty verdicts¹.

¹ (1 December 2011, page 22-23).

1.3 The purpose of this Investigation is to understand (with the assistance of the investigations which have already taken place) how this came about.

1.4 In addition, this Investigation will consider the subsequent suggestion that 227 boxes of material have been found which should have been, but were not, disclosed.

2. Mode

2.1 This Investigation is not carried out as an inquiry under the Inquiries Act 2005.

2.2 Should there be a requirement for this Investigation to be converted into a statutory inquiry under the Inquiries Act 2005, the QC leading the Investigation shall inform the Home Secretary. The Home Secretary will thereafter determine whether to exercise the powers conferred to her under the Act and convert the Investigation to a statutory inquiry under the Act.

2.3 A Minister can decide to convert an existing non-statutory inquiry to a statutory inquiry under the Inquiries Act 2005 if the original inquiry meets certain conditions. These are considered to apply to this Investigation. For completeness, the conditions are set out in section 15 of the 2005 Act as follows:

(a) particular events have caused, or are capable of causing, public concern, or

(b) there is public concern that particular events may have occurred.

3. Scope

The Investigation will explore the following;

3.1 The reasons why Leading Counsel for the Crown gave the indication quoted above, and the prosecution was therefore abandoned.

3.2 The Investigation will consider how the 227 boxes of documents were overlooked and the contents not considered for the purposes of disclosure in

the prosecution. It will also determine whether the reasons for the boxes being overlooked were addressed by the Dalecrest investigation, and if not to carry out such further investigation as necessary to address that matter.

3.3 The Investigation will cover all questions of resources, performance and conduct which are identified as a result of points 3.1 and 3.2 and which have not been resolved by the previous investigations. For the avoidance of doubt, in determining what has not been resolved by these earlier investigations, with particular regard to the disclosure failures, regard will be had to the Claimants' submissions in the judicial review proceedings (as set out in their Skeleton Arguments dated 17th January 2013 and 13th January 2014, the Supplementary Grounds of 3rd October 2013, the witness statement of M Fuller HMCPSI of 28th February 2014 and the Claimant's submissions of 10th March 2014).

3.4 The Investigation will consider why this prosecution was abandoned, including in particular the issues set at 3.1 to 3.3, and will have regard to:

- (a) the Investigation Team's findings in relation to points 3.1 - 3.3
- (b) the findings already made by the Independent Police Complaints Commission (IPCC) in its report dated 16 July 2013
- (c) the findings already made by Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) in its report dated May 2013, and
- (d) the findings already made by Operation Dalecrest².

If the Investigation is unable to reach a conclusion on the said matters it will explain why not, and will identify what, if any, further steps could enable such a conclusion to be reached.

² Operation Dalecrest is a statutory investigation carried out pursuant to Part 2 and Schedule 3 of the Police Reform Act 2002 by Devon and Cornwall Police on behalf of South Wales Police, looking into conduct matters related to the Lynette White Phase 3 investigation which was undertaken by South Wales Police.

3.5 What lessons are to be learnt from the process for recording, retaining and disclosing unused material that was adopted in *R v Mouncher and others*? Have appropriate steps been taken in the light of the lessons to be learned? If not, what further steps should be taken?

4. Details

4.1 The Investigation will be carried out by Mr Richard Horwell QC, who will be supported by junior barrister, Mr Patrick Hill, and an administrator (“the Investigation Team”). The Investigation will begin on 2 March 2015 and will aim to provide a report on key findings by Summer 2015. The Home Office Senior Responsible Officer (SRO) will be Mr David Lamberti. The Claimants and the Deputy Chief Constable for South Wales Police will be afforded the opportunity to comment on the appointed QC.

4.2 In carrying out this work, the Investigation Team will:

- have access to all files held by the Crown Prosecution Service and Counsel for the Crown;
- agree a suitable protocol for managing documentation so that it can have access to all relevant documents held by South Wales Police relating to the *R v Mouncher* trial and those relating to the collapse of the trial;
- have access to any files the Investigation Team considers necessary to carry out their investigation, for example those held by other police forces, the IPCC, HMCPSI and the Home Office;
- have access to the Judicial Review material (CO/2602/2012) including all pleadings, evidence, and the written statements filed;
- be able to speak to anyone (including serving police officers);
- provide monthly updates to the Home Secretary who will thereafter distribute the updates to all stakeholders, including but not limited to the Claimants, the Crown Prosecution Service and South Wales Police;

- take into account any representations³ made by or on behalf of stakeholders in respect of the topics of the Investigation, who should be spoken to, documents to be considered and the methodology to be adopted (which will clearly be for the Investigation Team to determine).
- Consider requests by the Claimants to view documents.

5. Reporting

5.1. The Investigation Team will submit a report to the Home Secretary by Summer 2015 setting out its key findings and conclusions arising out of paragraphs 3.1-3.3, including whether the Investigation:

- (i) has identified information that has not previously been considered by the IPCC, HMCPSI or Operation Dalecrest and which should lead to an investigation into any conduct matter on the part of any police officer;
- (ii) has identified further information which should be passed to the Director of Public Prosecutions;
- (iii) has been unable to access any relevant evidence and, if so, why, and whether a public inquiry would have a significantly better chance of doing so.

5.2 If the report referred to at paragraph 5.1 includes findings on the conduct of the Crown Prosecution Service and/or prosecuting counsel, the Investigation Team will submit it jointly to the Home Secretary and Attorney General.

6. 6. Publication

6.1. The Home Secretary intends to publish the report. Upon the report being submitted to the Home Secretary, she will decide on both the timing of the disclosure of the report and key evidence to the Claimants and publication. Stakeholders will be given notice of the decision to publish and will be given an opportunity to make representations. If the report includes findings on the conduct of the Crown Prosecution Service and/or prosecuting counsel, the Home Secretary will consult the Attorney General on the timing of the disclosure of the report and key evidence and publication.

³ These may include meetings with or written representations to the Investigation Team. Meetings with the Investigation Team will be subject to the approval of QC.