

## BIRMINGHAM SIX

### Line to take

No connection between Birmingham Six and Guildford Four. The quashing of the Guildford convictions does **not** affect the safety of the Birmingham convictions, on which the Court of Appeal has already pronounced.

Home Secretary is always prepared to consider any allegations that there has been of miscarriage of justice. He has not, however, found any new evidence or other consideration of substance to justify his further intervention in the matter, but has recently authorised the downgrading of their security categorisation.

### Background

1. At Lancaster Crown court on 15 August 1975, Hugh David Callaghan, Patrick Joseph Hill, Robert Gerard Hunter, Noel Rickard McIlkenny, William Power and John Walker were each convicted on 21 counts of murder and sentenced to life imprisonment on each count. The convictions followed their involvement with explosions at public houses in Birmingham in 1974. Their appeal was considered in March 1976 and was refused.

### Action taken by Home Secretary in 1987

2. Following representations, which included suggestions that there was doubt about the validity of the scientific evidence and that the six men had been mistreated while in police custody, the Home Secretary announced on 20 January 1987 his decision to refer the whole case to the Court of Appeal under the provisions of section 17(1)(a) of the Criminal Appeal Act 1968. The case then became, for all purposes, an appeal by the Six, and it was open to them to raise with the court any matters which they considered relevant to their appeal.

3. In conjunction with the reference to the Court of Appeal, another police force (the Devon and Cornwall Constabulary) was invited to examine the allegations made of police misconduct in the treatment of the six men while they were detained in custody prior to their court appearance in 1975.
4. The new appeal was heard by three senior judges in November and December 1987. One of these was the Lord Chief Justice of England and Wales, Lord Lane. The appeal concerned itself in the main with the question of the validity of the scientific evidence and the allegations of police misconduct. In its judgment, given in January 1988, the court stated that nothing had emerged which led it to believe that the original convictions were in any way unsafe or unsatisfactory.

#### **Leave to appeal to the House of Lords**

5. The six men subsequently applied for leave to appeal to the House of Lords on a point of public importance certified by the Court of Appeal. This application was refused by the Appellate Committee.
6. An application was subsequently made by the six men to the European Commission of Human Rights, complaining that they had been denied a fair and public hearing contrary to Article 6, Paragraph 1 of the Convention, since the evidence against them was considered only by the Court of Appeal, which started from the basis that they were guilty of the offences. The European Commission, sitting on 9 May 1989, declared the application inadmissible.

#### **Home Secretary's position**

7. The Home Secretary is always prepared to consider any allegations that there has been a miscarriage of justice. However, it is a fundamental principle that questions of guilt or innocent are for the courts to determine, and it would not therefore be right for the Government or its Ministers to intervene unless there was some new evidence or other consideration of substance which had not been before the courts and which appeared to cast doubt on the safety of a conviction. The Home Secretary continues to receive representations about the safety of the convictions of the Birmingham Six, but he has not found any new evidence or other consideration of substance to justify his further intervention in the matter. He has, however, recently approved the downgrading of their security status from Category A to B which allows them greater freedom of movement within the prison, and the right to receive any visitors (at the discretion of the prison government).

### **West Midland Serious Crime Squad**

8. In August 1989, the Chief Constable of the West Midlands police disbanded the Serious Crime Squad, following the acquittal of a person of the offence of armed robbery, after allegations had been made that his confession was fabricated by the police. All officers involved in the Squad between 1986 and 1988 have been moved to non-operational duties and an inquiry, supervised by the independent Police Complaints Authority, is being conducted by an Assistant Chief Constable of the West Yorkshire police. This development has given rise to speculation about the safety of the convictions of the Birmingham Six, who were questioned by members of the Serious Crime Squad, as well as other officers, following their arrest in 1974. However, only three of the officers identified in the doubtful cases which have arisen in the past three years were involved, as members of the Serious Crime Squad in interviewing the Birmingham Six in 1974.
  
9. As to the specific case of the Birmingham Six, the position remains that, despite the general allegations made about the activities of the Serious Crime Squad, there is so far no new evidence to question the safety of the convictions. As the Home Secretary has made clear on a number of occasions, if anything arises from the investigation currently taking place into the activities of the Squad, which causes doubt about the safety of any conviction, he will of course consider whether his further intervention would be justified.

### **Connection with the case of the Guildford Four**

10. The Guildford and Woolwich convictions were quashed because of defects in the Crown's evidence. There is no connection between that evidence and the evidence offered in the cases of the Birmingham Six.

REQUEST FROM CONGRESSMAN KENNEDY TO VISIT THE BIRMINGHAM SIX

Congressman Kennedy's request to visit some or all of the Birmingham Six was refused for operational and logistical reasons. At the time these prisoners were held in Security Category A, and as such their visits and visitors were subject to special conditions. They were located in three different prisons in different parts of the country and it is not the practice to bring groups of prisoners together to suit the convenience of visitors.

Congressman Kennedy was told that a Home Office official would be available to discuss the case of the Birmingham Six should he wish - this offer was not taken up.

The downgrading of the men's security category in mid-December to category B allows them greater freedom of movement within the prison, and the right to receive any visitors, at the discretion of the Prison Governor within the terms of the Prison Rules and Standing Orders.

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