

# [Boston college tapes controversy](https://assignbuster.com/boston-college-tapes-controversy/)

## Introduction

The Boston College Tapes canbe seen as one of the most controversial topics surrounding the troubles inNorthern Ireland to date. In 2001, the Boston College of Massachusetts setabout creating an oral history of the troubles to give people of the futurefirst-hand information on what life was like for people at the time. Ex paramilitarymembers from Republican and Unionist backgrounds were approached and asked totake part in this creation of oral history. Ed Moloney, a writer and journalistwas the director of the project. Republicans were interviewed by an ex IRAprisoner Dr Anthony McIntyre and Loyalists were recorded by Wilson McArthur.[1]The project had one crucial rule, that rule was none of the information spokenabout in the interviews could be used or released only with permission of theinterviewee or when they died. 1 Out ofcoincidence, the first two interviewees to pass away were arguably two of themost iconic figures who had lived through the troubles. These men were DavidErvine, a former Irish Republican Army (IRA) commander and David Ervine, amember of the Ulster Volunteer Force (UVF). 1 David was interviewedbetween May and October 2004 while Brendan Hughes was interviewed between March2001 and August 2002. 1 Both men gavetheir own accounts of several major events that took place during the troubles. Many of the significant moments spoken about overlapped with both intervieweesbut the opinions on the cause of these key events contrasted greatly. 1 When both men had died and the tapes were released, some of the topics spokenabout during the interviews angered the public, particularly the Police Serviceof Northern Ireland (PSNI). They felt that if these two interviews contained bothmen confessing being part of illegal paramilitary organisations, then the restof the interviews must contain valuable information in solving many of the coldcase murders that took place in the North at the time. A legal war was about totake place leaving the whole argument about ethics and what is right and wrongup for serious debate.

Theday lives were changed

On Friday the 21 July 1972, the IRA detonated 26 bombs across the city of Belfast in under two hours. Extreme casualties were recorded with nine people dying and 130 injured.[2]OnOxford street bus station, a car bomb exploded killing four workers and twosoldiers. In Cavehill Road in the north of the city, two women and a schoolboywere killed by another car bomb. 2 “ Someof the bodies were so badly mutilated that it was initially thought that agreater number of people had died”. 2 Eventhough warning calls were given by the IRA, the police and emergency servicesof the city were unable to cope with such large-scale damage from bombsdetonating. This faithful day later came to be called ‘ Bloody Friday’. 2 During the recordings, both men admittedthat this was a significant moment in the course of their involvement inparamilitary acts. Hughes says that “ I was one of the key monoverse on the daylater to be known as Bloody Friday”[3]Inthe tapes, Ervine admits that after witnessing ‘ Bloody Friday’ he says he “ I wentover the edge, the following Sunday I joined the UVF. I wanted to sort of hitback and I wanted to hit back with an absolute ruthlessness.” 3 Fromthat day forward, the men’s lives would never be the same as both became keyfigures in their separate paramilitary groups.

TheLegal Dispute

Following the release of thetapes, tensions began to mount between the PSNI and the Boston College. InMarch 2011, the British Government announced to the US Department of Justicethat they would be initiating a Mutual Legal Assistance Treaty (MLAT). TheBritish Government wanted this agreement because they wanted to issue asubpoena for all data involving Brendan Hughes and Dolours Price.[4]Because of the agreement that no data could be released to the public untilthat interviewee had died, the British Government had no access to the tapes. After the British attempted to initiate a (MLAT), Boston filed a motion toquash this attempted subpoena in June. 4The British Government were not long about submitting a second subpoena and didso in August. This time, they wanted all material of Dolours Prices interviewscontaining information on the disappearance of Jean McConville, a young girlwho was kidnapped and murdered by the IRA in 1972. After this second subpoena, Ed Moloney and Anthoney McIntyre, key figures in the creation of the tapeswanted to take action on their own material in the Boston Tapes and showsupport for the Boston College in attempts to quash the motion of the BritishGovernment. 4 If the quash of themotion was successful, they would be allowed to join the action as plaintiffs lookingto force the Attorney General to stand by his rules under the US-UK (MLAT). 4 The men wanted the court to summon the Attorney General to use the preciseknowledge of the clear promises made by the U. K. Government to the U. S. Senatethat it would not revive topics addressed in the Belfast Agreement or cause anydamage to the painstaking efforts made and established in Northern Ireland. 4 In December 2011, The Motion toQuash the Subpoenas by the Boston College and Moloney and McIntyre attempt tointervene was ruled against by Judge William G. Young. He effectively summonedthe Boston College to review the material and hand over the tapes. After thisresult, Boston College were prepared to abide with the result while McIntyreand Moloney filed a Notice of Appeal. With this, they also succeeded inclaiming a Motion For Stay Pending Appeal to the First Circuit. 4 Unfortunatelyfor Moloney and McIntyre, Judge Young dismissed their complaints in January2012. 4

On 4 April 2012, Moloney andMcIntyre’s appeal was heard at the First Circuit Court of Appeal in which theyput forward in Febuary of 2012. 4 A stay from the US Supreme Courtwas granted to McIntyree and Moloney which led to the formation of a certpetition. Their Petition for a Writ of Certiorari was filed in mid-November2012. 4 Originally, the Solicitor General refrained the US Governmentright to appeal. Several groups such as Freedom of Press, Irish AmericanCoalition of the AOH and many more filed Amicus Briefs to show their support ofthe petitioners. After these groups filed the Amicus Briefs, the SolicitorGeneral requested and was granted an extension to file a response which had tobe submitted by 31 January 2013. 4

On 15 April 2013, Moloney andMcIntyres’ petition was denied by the Supreme Court. By the end of May 2013, BostonColleges petition and motions were dismissed by the First Circuit Court ofAppeals. 4 This ruling was a huge outcome of the controversy as thedecision reduced the volume of material to be given over from around 85interviews to sections of 11 interviews. Once more in August 2013, the USAttorney submitted a request for a rehearing of the decision which BostonCollege opposed. Like many of the decisions of the controversy, their requestwas denied. 4

After all the subpoenarequests, the legal battle entering the doors of the Supreme Court of theUnited States and the appeal which led to the amount of data being released tothe British Government greatly reduced, on 13 September 2013, the First CircuitCourt Appeal began to discuss its official order of it’s ruling from 31 May2013. 4

Unfortunately on 23 of  January 2013, Dolours Price died in her homein Dublin. As part of the MLAT agreement, her tapes were now available to theBritish Government to gain access to. 4 In her interview, a largeproportion of the material was around on the kidnapping and killing of JeanMcConville. The PSNI felt with the evidence obtained in these tapes they couldarrest the supposed people involved and solve the case. In 2014, the PSNIarrested many people including Gerry Adams and Ivor Bells and Gerry Adams. Fortunately for Gerry Adams, he was released without charge while Ivor Bellscase is still in proceedings. 4

A number of people werearrested in 2014 in relation to the McConville case and Boston College tapes, including Ivor Bell and Gerry Adams. Adams was released without charge whileBell’s case is still ongoing. 4 In 2015 the PSNI sought and weregranted access to loyalist Winston Rea’s archive material. His case is stillongoing. In 2016, a subpoena was issued to Boston College seeking access to thearchive material of lead researcher Anthony McIntyre. His case is still beforethe courts. 4

The controversy of the tapesis still very much a reality today. On 6 November 2018, Anthony McIntyreplanned to appeal against the PSNI having access to his tapes in the EuropeanHuman Rights Court.[5]Only a month ago McIntyre lost a legal bid to have the information of his tapeskept confidential. 5 The PSNIwant to gain access to McIntyre’s tapes because of his involvement in the IRAand the several bombings that he may have been involved in stretching back asfar as the 1970s. 5 McIntyrefelt that the police shouldn’t be allowed to access his tapes due to a fault inthe International Letter of Request (ILOR). 5 There is no officialdecision made yet but the case is assured to rumble on for who knows how long.

In conclusion there are manylessons to be learned from the Boston College Tapes. It really depends on whatway an individual may look at the project overall. From one perspective, theproject can be seen as a great pool of primary sources. A group of exparamilitary members from Catholic and Protestant backgrounds giving their sideof the story to how they were involved and how they coped during the war. Onthis level, we can see how valuable the primary source can be. From anotherperspective, particularly a legal one, the Boston College Tapes is a source ofdata that has the potential to solve a lot of cases of killings and kidnappingsthat took place at the time. The Jean McConville case, in particular, is spokenabout very often in the tapes and the PSNI feel with access to the data, thecase would be solved once and for all. In argument to this however, the rightsof the interviewees must be kept as they all officially agreed that their tapeswouldn’t be released until after their deaths. The Boston Project will mostdefinitely be widely contested on the legal front for many years to come.

Bibliography

Primary Sources

* Kate O’Calaghan Documentary, Voices from the Grave , based on book Voices from the Grave by Ed Moloney, recorded 2001, accessed on the 28 November 2018.

Secondary Sources

* Alan Erwin, ‘ McIntyre plans appeal in European human rights court’ Irish Times, (2018), accessed 3 December 2018, URLhttps://www. irishtimes. com/news/crime-and-law/boston-tapes-mcintyre-plans-appeal-in-european-human-rights-court-1. 3688117
* Ed Moloney, Voices From the Grave , (London 2010), p. 6-8
* Gordon Gillespie A Short History of The Troubles , (Reading 2010), p. 35-40
* Boston College Subpoena News; Legal Timeline , (2011), Accessed 28 Nov. 18, https://bostoncollegesubpoena. wordpress. com/

[1]Ed Moloney, Voices From the Grave, (London 2010), p. 6-8

[2]Gordon Gillespie A ShortHistory of The Troubles, (Reading 2010), p. 30-40

[3]Kate O’Calaghan Documentary, Voices from the Grave, based on book Voices from the Grave by Ed Moloney, recorded 2001, accessed on the 28 November 2018

[4] Boston College Subpoena News; Legal Timeline, (2011), Accessed 28 Nov. 18, https://bostoncollegesubpoena. wordpress. com/

[5]Alan Erwin, ‘ McIntyre plans appeal in European human rights court’ Irish Times, (2018), accessed 3 December 2018, URL https://www. irishtimes. com/news/crime-and-law/boston-tapes-mcintyre-plans-appeal-in-european-human-rights-court-1. 3688117