

Boston college tapes controversy



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Introduction

The Boston College Tapes can be seen as one of the most controversial topics surrounding the troubles in Northern Ireland to date. In 2001, the Boston College of Massachusetts set about creating an oral history of the troubles to give people of the future first-hand information on what life was like for people at the time. Ex paramilitary members from Republican and Unionist backgrounds were approached and asked to take part in this creation of oral history. Ed Moloney, a writer and journalist was the director of the project. Republicans were interviewed by an ex IRA prisoner Dr Anthony McIntyre and Loyalists were recorded by Wilson McArthur.[1] The project had one crucial rule, that rule was none of the information spoken about in the interviews could be used or released only with permission of the interviewee or when they died. ¹ Out of coincidence, the first two interviewees to pass away were arguably two of the most iconic figures who had lived through the troubles. These men were David Ervine, a former Irish Republican Army (IRA) commander and David Ervine, a member of the Ulster Volunteer Force (UVF).

¹ David was interviewed between May and October 2004 while Brendan Hughes was interviewed between March 2001 and August 2002. ¹ Both men gave their own accounts of several major events that took place during the troubles. Many of the significant moments spoken about overlapped with both interviewees but 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 spoken about during the interviews angered the public, particularly the Police Service of Northern Ireland (PSNI). They felt that if these two interviews contained both men confessing being part of illegal

paramilitary organisations, then the rest of 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 to take place leaving the whole argument about ethics and what is right and wrong up for serious debate.

The day 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] On Oxford street bus station, a car bomb exploded killing four workers and two soldiers. In Cavehill Road in the north of the city, two women and a schoolboy were killed by another car bomb. ² “Some of the bodies were so badly mutilated that it was initially thought that a greater number of people had died”. ² Even though warning calls were given by the IRA, the police and emergency services of the city were unable to cope with such large-scale damage from bombs detonating. This faithful day later came to be called ‘Bloody Friday’. ² During the recordings, both men admitted that this was a significant moment in the course of their involvement in paramilitary acts. Hughes says that “I was one of the key men who were on the day later to be known as Bloody Friday”^[3] In the tapes, Ervine admits that after witnessing ‘Bloody Friday’ he says he “I went over the edge, the following Sunday I joined the UVF. I wanted to sort of hit back and I wanted to hit back with an absolute ruthlessness.” ³ From that day forward, the men’s lives would never be the same as both became key figures in their separate paramilitary groups.

The Legal Dispute

Following the release of the tapes, tensions began to mount between the PSNI and the Boston College. In March 2011, the British Government announced to the US Department of Justice that they would be initiating a Mutual Legal Assistance Treaty (MLAT). The British Government wanted this agreement because they wanted to issue a subpoena for all data involving Brendan Hughes and Dolours Price.^[4] Because of the agreement that no data could be released to the public until that interviewee had died, the British Government had no access to the tapes. After the British attempted to initiate a (MLAT), Boston filed a motion to quash this attempted subpoena in June. ⁴The British Government were not long about submitting a second subpoena and did so in August. This time, they wanted all material of Dolours Price's interviews containing information on the disappearance of Jean McConville, a young girl who was kidnapped and murdered by the IRA in 1972. After this second subpoena, Ed Moloney and Anthony McIntyre, key figures in the creation of the tapes wanted to take action on their own material in the Boston Tapes and show support for the Boston College in attempts to quash the motion of the British Government. ⁴ If the quash of the motion was successful, they would be allowed to join the action as plaintiffs looking to 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 precise knowledge of the clear promises made by the U. K. Government to the U. S. Senate that it would not revive topics addressed in the Belfast Agreement or cause any damage to the painstaking efforts made and established in Northern Ireland. ⁴ In December 2011, The Motion

to Quash the Subpoenas by the Boston College and Moloney and McIntyre attempt to intervene was ruled against by Judge William G. Young. He effectively summoned the Boston College to review the material and hand over the tapes. After this result, Boston College were prepared to abide with the result while McIntyre and Moloney filed a Notice of Appeal. With this, they also succeeded in claiming a Motion For Stay Pending Appeal to the First Circuit.⁴ Unfortunately for Moloney and McIntyre, Judge Young dismissed their complaints in January 2012.⁴

On 4 April 2012, Moloney and McIntyre's appeal was heard at the First Circuit Court of Appeal in which they put forward in February of 2012.⁴ A stay from the US Supreme Court was granted to McIntyre and Moloney which led to the formation of a cert petition. Their Petition for a Writ of Certiorari was filed in mid-November 2012.⁴ Originally, the Solicitor General refrained the US Government right to appeal. Several groups such as Freedom of Press, Irish American Coalition of the AOH and many more filed Amicus Briefs to show their support of the petitioners. After these groups filed the Amicus Briefs, the Solicitor General requested and was granted an extension to file a response which had to be submitted by 31 January 2013.⁴

On 15 April 2013, Moloney and McIntyre's petition was denied by the Supreme Court. By the end of May 2013, Boston College's petition and motions were dismissed by the First Circuit Court of Appeals.⁴ This ruling was a huge outcome of the controversy as the decision reduced the volume of material to be given over from around 85 interviews to sections of 11 interviews. Once more in August 2013, the US Attorney submitted a request

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for a rehearing of the decision which Boston College opposed. Like many of the decisions of the controversy, their request was denied.⁴

After all the subpoena requests, the legal battle entering the doors of the Supreme Court of the United States and the appeal which led to the amount of data being released to the British Government greatly reduced, on 13 September 2013, the First Circuit Court Appeal began to discuss its official order of its ruling from 31 May 2013.⁴

Unfortunately on 23 of January 2013, Dolours Price died in her home in Dublin. As part of the MLAT agreement, her tapes were now available to the British Government to gain access to.⁴ In her interview, a large proportion of the material was around on the kidnapping and killing of Jean McConville. The PSNI felt with the evidence obtained in these tapes they could arrest the supposed people involved and solve the case. In 2014, the PSNI arrested many people including Gerry Adams and Ivor Bell and Gerry Adams. Fortunately for Gerry Adams, he was released without charge while Ivor Bell's case is still in proceedings.⁴

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

The controversy of the tapes is still very much a reality today. On 6 November 2018, Anthony McIntyre planned to appeal against the PSNI having access to his tapes in the European Human Rights Court.^[5] Only a month ago McIntyre lost a legal bid to have the information of his tapes kept confidential.⁵ The PSNI want to gain access to McIntyre's tapes because of his involvement in the IRA and the several bombings that he may have been involved in stretching back as far as the 1970s.⁵ McIntyre felt that the police shouldn't be allowed to access his tapes due to a fault in the International Letter of Request (ILOR).⁵ There is no official decision made yet but the case is assured to rumble on for who knows how long.

In conclusion there are many lessons to be learned from the Boston College Tapes. It really depends on what way an individual may look at the project overall. From one perspective, the project can be seen as a great pool of primary sources. A group of ex-paramilitary members from Catholic and Protestant backgrounds giving their side of the story to how they were involved and how they coped during the war. On this level, we can see how valuable the primary source can be. From another perspective, particularly a legal one, the Boston College Tapes is a source of data that has the potential to solve a lot of cases of killings and kidnappings that took place at the time. The Jean McConville case, in particular, is spoken about very often in the tapes and the PSNI feel with access to the data, the case would be solved once and for all. In argument to this however, the rights of the interviewees must be kept as they all officially agreed that their tapes wouldn't be released until after their deaths. The Boston Project will most definitely 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, URL <https://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/>
<https://assignbuster.com/boston-college-tapes-controversy/>

[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>