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No Prosecution for London Police After Brazilian's Death

by LADB Staff

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British prosecutors determined in July that they did not have enough evidence to prosecute police officers who shot Brazilian national Jean Charles de Menezes in the London subway system last year (see NotiSur, 2005-08-12). Menezes' family responded angrily to the decision by the Independent Police Complaints Commission (IPCC), calling it "shameful" and saying it "sickened" them. The decision came four months after British Prime Minister Tony Blair apologized for the killing.

"Insufficient evidence"

The 27-year-old de Menezes died on July 22, 2005, when Metropolitan Police officers followed him into the London subway, known as the Tube, and shot him seven times in the head. Police officers mistook him for a suicide bomber, just weeks after the July 7 suicide bombings killed dozens of commuters and after attempted suicide bombings had failed the day before. A surveillance team had been monitoring a block of flats in south London, where de Menezes lived, in the belief that a man wanted in connection with the previous day's attempted suicide bombings resided there. When de Menezes, an electrician, exited the flats, police wrongly identified him as the suspect and followed him to Stockwell, where he was shot as he boarded a Tube train.

Police reports after the shooting had several statements that were later disputed or disproved. Early reports suggested he had been challenged by police and fled vaulting the barriers and then bolting down an escalator with armed officers in pursuit. He was also said to have been wearing a bulky jacket, which added to suspicions. However, leaks from the IPCC investigation revealed that he had only been wearing a light denim jacket, that he had calmly walked through the station, and that he even picked up a free newspaper. He was only intercepted when he was actually on the train, when he was suddenly grabbed from behind, had his arms pinned to his side, and was shot seven times in the head at point-blank range, according to reports.

After a long investigation process, the IPCC and the Crown Prosecution Service (CPS) determined that it would prosecute no individual officers but said that the Metropolitan Police as a whole should be prosecuted under health and safety laws for the killing. Reacting to the CPS decision regarding health and safety, the Police said in a statement it was "concerned and clearly disappointed." But on the decision not to prosecute individual officers it was "pleased for the officers and their families who have faced much uncertainty over the last year."

Alex Pereira, a cousin of de Menezes, said the decision was "unbelievable" and "ridiculous." He told a news conference, "It's unbelievable what they sent to us today because we had to wait for a year and it was a hard year for us."

Violation of de Menezes' "health, safety, and welfare"

Senior CPS reviewing lawyer Stephen O'Doherty said the two officers who fired the fatal shots could not be prosecuted for murder or any related offences because they had "genuinely believed" he was a suicide bomber. "The two officers who fired the fatal shots did so because they thought that Mr. de Menezes had been identified to them as a suicide bomber and that, if they did not shoot him, he would blow up the train, killing many people," said O'Doherty. Despite mistakes made in planning and communication by officers, there had been "insufficient evidence to provide a realistic prospect of conviction against any individual police officer".

The CPS said the office of the Metropolitan Police Commissioner would be prosecuted under sections three and 33 of the 1974 Health and Safety at Work Act for "failing to provide for the health, safety, and welfare" of de Menezes on July 22. An IPCC report, handed to the CPS in January but not yet made public in July, was highly critical of the surveillance operation and police control-room staff. It was said to conclude that a series of organizational failings and communication difficulties had resulted in two experienced marksmen shooting dead an innocent man. The CPS also looked into allegations that a logbook of events had been altered to hide the fact that de Menezes had been mistakenly identified, but O'Doherty said experts could not agree to the required standard that this had happened. The IPCC said the question of potential disciplinary action against any individual officer would be considered under the Police Reform Act 2002 and its full report would be published as soon as "legal considerations" allowed.

Shami Chakrabarti, director of campaign group Liberty, said public confidence could not be restored until the IPCC report was in the public domain. "I have to say that I think it's pretty unacceptable that we are now one year on and there's still no full rigorous account of what happened," she told BBC News. The Metropolitan Police still maintain a "shoot-to-kill" policy for suspected bombers, something that the de Menezes family objects to. "I am very disappointed. I was expecting a negative reply and it is shameful," said another cousin of the victim, Patricia da Silva Armani, at a London press conference.

Jean Charles' parents, Maria and Matozinhos de Menezes, living in Gonzaga in southeastern Brazil, were angered by the reports that no one would face criminal charges. Maria de Menezes, 60, was quoted as saying, "My family will not accept that decision. It is a total cover-up, which is what we had suspected was going to happen ever since we met your IPCC. They may think that because they are the First World and we live thousands of miles away in Gonzaga the Third World that we are poor, stupid people. We are poor, but we are not stupid."

The Brazilian government also expressed its regret at the outcome. "The Brazilian government regrets the decision...because it prevents the officials who took part in the assassination of Jean Charles de Menezes from being punished," the Ministry of Foreign Affairs said in a statement. It said a Brazilian delegation that had recently been sent to London would ask to receive extra information about the decision.

Blair apologizes in March

British Prime Minister Tony Blair offered his "deepest regrets" in March to Brazil's President Luiz Inacio Lula da Silva, then visiting England, and to the family. Lula's meeting with Blair took

place under a cloud of lingering anger regarding the slaying of de Menezes and demands from the victim's family that London's police commissioner, Sir Ian Blair (not related to the Prime Minister), resign. Commissioner Blair has not done so.

Lula said in March he trusted British authorities to investigate the death and "do what needs to be done." "We want there to be justice for the family," Lula said. "They deserve for us to be able to discover what actually happened." Blair said, "Let me say that we offer our deepest regrets to the family for this very tragic event and I of course assured the president that the proper investigations and procedures would continue." He said he had full confidence in the police commissioner.

The prime minister also apologized for the killing in the summer of 2005, saying he was "desperately sorry." De Menezes' cousin Alex Pereira rejected the apology, saying, "I won't accept Blair's apology because he's killing people he apologized, but at the same time they will still carry on with their shoot-to-kill policy."

-- End --