The Letter

This Note is sent to the STUC, Unite, RTU and the Holyrood Justice Committee in support to the evidence already provided namely That Fateful Day, which included Audit and Technical Notes from 1999 and the 22 Oct 1999 Presentation to the assembled Management Team of Shell Exploration and Production. The threads of it all are pulled together with the Case against Malcolm Brinded CBE, also copied.

Here you read a potted history of this whole sordid affair. The family are calling for help having been badly let down by the Scottish Crown Prosecution Service and the then Lord Advocate Colin Boyd. They should be treated as victims of a crime, not only was their brother killed unlawfully but within a month of his death he was blamed by Offshore Safety Division (OSD) officials in Aberdeen working in collusion with Shell to prevent a FAI being held.

Letter dated 30th November 2017 from Family to Shell Chairman copied to Justice Minister Michael Martheson

23rd November last year in Dundee Neil Moncrieff learns for first time in approaching 14 years that evidence from the Author supplied by me to OSD on 28th October 2003 was not presented at the FAI. This was despite my request to OSD on May 22nd some months before the FAI commenced so top do, see attached letter to David Bainbridge, Principal Inspector.

This evidence, as explained in the Fateful Day would have informed the family not only as to How their brother had died but also **Why** he died, died needlessly, due to criminal misconduct on behalf of his employers, this covered up by Shell and also criminal misconduct as public authority employees of OSD. No person has ever been prosecuted for this misconduct. OSD did not want that because it would have alerted Trade Unions et al that OSD failed to investigate workers concerns, publicly expressed, re the effects of the infamous Touch FA policy.

What happened to the evidence that would have informed the family Why he and his workmate died, and why did the Solicitor representing their brothers interests simply not raise the evidence?

When it became clear to me by November 2005 that the OSD had not passed my evidence to the then special Procurator Earnest Barbour, leading evidence for the Crown at the FAI, I passed it directly to him and the Solicitor Christine McCrossan who was acting in the interests of the family's brother Keith Moncrieff. Last year the family had learned that the Solicitor had been verbally abused and the evidence I provided her dismissed as the ranting and ravings of a disgruntled ex-employee, note in fact, I was employed at the time as a Global Consultant for Shell International.

The solicitor Christine McCrossan wrote me explaining this asking me to contact Boyd as the evidence would be withheld. I did this several times but to no avail. The letter was the original I had not taken a copy. When I requested that my letter, my property be returned, that was refused. When I requested to go to Chamber Street to discuss the behaviour of the Fiscal and the censorship of the evidence that was refused. To the charges from me that they were guilty of common theft they replied that in all dealings Crown Agents are immune from prosecution, they appear in Scotland at least to be above the law. As to the evidence set out in that Fateful Day, they said whilst you think your evidence is of interest to the public it is not in the opinion of the Solicitor General in the public interest, it does not meet that criteria. See attached.

Copied on the attachments is the input to the Justice Committee re FAI in general and the proposed changes to the Act supporting fresh proceedings. I would like to complement STUC for the paragraph A which clearly fits the Bill as can be observed by the mature response of Neil Moncrieff who only wanted the truth so that other workers did not suffer in future the same fate as their brother.

On 11th October 2003 Keith and Sean McCue in an action that was both repugnant and morally reprehensible were both blamed as being culpable for their own deaths for going in to repair patch 86 without a permit and for failing to don their self-rescue breathing apparatus. The workforce reaction to this is copied.

On 14 June 2005 OSD and Shell had won the argument, both parties dreaded this stuff being presented against them and Shell at the subsequent Inquiry, after all it was an open and shut case.

Again, in July 19th 2006, the family learn for the first time that evidence relevant to the deaths was withheld from the FAI as being beyond the scope of the Act.

On the same day, clearly IN THE PUBLIC INTEREST trade unions call for better manslaughter law.

On the 3rd Oct 2006 Trade Unions comment on what they perceive as weaknesses in proposed changes to manslaughter laws. I particularly wish to draw your attention to the comments of **Anne Begg, quote the danger of making CEOs personally culpable is that there is no way of proving a link between their actions and the death of an individual unquote.** The DWP Select Committee were given evidence by me of what you read hear and in 2007 it was published in full with no redactions. I asked to come to parliament to explain it all but quote THEY HAD NO TIME unquote. I will copy you this shortly.

Efforts to get evidence to FAI

28th October 2003, only days after the deaths, meet OSD officials at my request to be told evidence from 1999 Audit nor relevant to deaths

On 22May 2005 being aware that I had been duped right to OSD asking that evidence be led at future FAI, letter ignored and evidence withheld from the Fiscal.

In dealings at the time with the Solicitor General informed that all you have read is of interest to the public no doubt but NOT IN THE PUBLIC INTEREST, see attached.

Finally:

Letter to Fiscal Ernest Barbour, Sheriff Harris and Lord Advocate Angiolini explaining much of above and my continued frustration in getting them to act

Bill Campbell

December 2018

83 Denoon Terrace
Dundee
DD2 2DG
30/11/17

Dear Mr Holliday,

A week or so ago I found out that the Brent Bravo Oil Rig my brother, Keith Moncrieff, died on was not shut down in 1999 for health and safety breaches, it should have been. There is also evidence to show the manager at the time of Keith's "accident", September 2002, was mentally unstable.

Finding out about this has been unbearable for my family, it's the re-living most of all. Keith's daughter Jenna feels is it beyond belief to hear there was a corrupt HSE official who has told the Fiscal in Aberdeen that it was and open and shut case, he said Keith and Sean went into the leg without permission, but Shell pleaded guilty and Keith was cleared immediately, this hinted that Keith was somewhat responsible for his own death, so this did not help with any loss and grief my mother was feeling. My mother passed away 6 months after Keith's death with a broken heart, she said you should never have to bury your own child.

We were brought up by our parents to be believe that honesty was the best policy and we were praised when we did the right thing. Mr Campbell says you are an honourable man who believes in honesty and openness. Can you help or please can you tell the Justice Minister that you would support an Independent Inquiry. That you would not oppose an alternative criminal proceeding against these evil men who for 15 years have gotten away with murder. This has left my family saddened and heartbroken. Being without my brother is one of the hardest things to have happened to my family. All we want Mr Holliday is the truth. Can you please please on behave of my sister, brothers, and Keith's daughter Jenna and the grandchildren 'that never met him'. Help us bring these evil men to justice.

Thank you

Yours Sincerely,

Neil D. Moncrieff

Royal Dutch Shell plc

Carel van Bylandtlaan 30
2596 HR The Hague
The Netherlands
Tel +31 70 377 3859
Internet http://www.shell.com

Mr. Neil Moncrieff
83 Denoon Terrace
Dundee
DD2 2DG

The Hague, 2 March 2018

Dear Mr Moncrieff,

Thank you for your recent letter. While it was postmarked 13 December, it did not reach here until 9 January, and the information you raised in it then needed to be checked. However, I must apologise for the delay in responding.
I appreciate how difficult the memories of your brother's tragic death must be.

I am not sure where the information you are referring to has come from. I can understand how hurtful receiving such information must be, but I can assure you that the information is fundamentally inaccurate. The matters you write about were fully investigated by the relevant authorities at the relevant time. As you know, after these investigations, it was decided that no criminal charges should be brought.

I am truly sorry for the loss suffered by you and your family. I hope you understand, however, that it would be wholly inappropriate for me to become involved in matters which have been fully and properly addressed in the past.

Kind regards,

Charles O. Holliday
Chairman

Royal Dutch Shell

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Scottish Government
Riaghaltas na h-Alba
gov.scot

Mr Bill Campbell
By email

Our ref: 2017/0043401
21 December 2017

Mr Campbell

Thank you for your correspondence on this matter.

The conduct of Fatal Accident Inquiries are matters for the Crown Office and Procurator Fiscal Service (COPFS) and the courts. They are conducted entirely independently of the Scottish Government and it would not be appropriate to comment.

I am sorry that I am unable to help you further.

Linsey Wilson
Scottish Government

Relatives' plea over oil platform deaths

Relatives of the two men who died onboard the Brent Bravo oil platform in the North Sea are demanding that lessons are learned from the tragedy.

An investigation into the accident is underway

Oil workers Sean McCue, 22, of Kennoway in Fife, and Keith Moncrieff, 45, of Invergowrie, Tayside died after a sudden escape of gas occurred while they were working inside one of the legs of the platform.

An investigation is under way into the cause of the incident which took place on Thursday afternoon on the platform, which lies 116 miles north-east of Lerwick, Shetland.

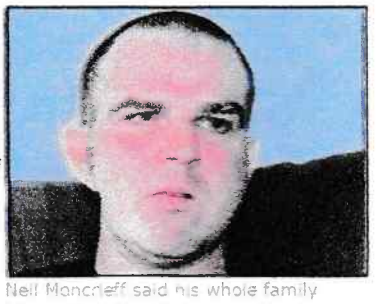
Neil Moncrieff, brother of one of the victims, is urging oil company Shell and the Health & Safety Executive to make sure that measures are taken to ensure that such an accident does not happen again.

Keith Moncrieff died one day before his 22-year-old daughter Jenna gave birth to his first grandchild.

Brother Neil said: "If it was cost-cutting or someone cutting corners, then they need to deal with it. Deal with the person that cut the corners.

"If not - if it was a manufacturing fault - rectify it so that no-one else ends up like my brother and no one else feels what I and my family are feeling right now."

The family's lawyer, John Hall, confirmed that Mr Moncrieff's daughter had given birth to a baby girl.



Neil Moncrieff said his whole family were devastated

He said: "Although Mr Moncrieff and his wife Helen were separated they had been married for some 21 years and his tragic death has come as a terrible shock to her and their daughter Jenna.

"Jenna on Friday gave birth to a baby girl and what should have been a day of great joy for the family has turned into a day filled with unbearable grief.

"This is an extremely distressing time for the family."

Unions have raised new concerns about a backlog of maintenance on the Brent Bravo but Shell said the Health and Safety Executive had given the a clean bill of health to its

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Last Updated: Saturday, 11 October, 2003, 13:53 GMT 14:53 UK

Anger over oil death report

An oil company has denied blaming two oil workers for a gas leak which caused their deaths.

Investigations into the deaths are continuing

Shell Expro has produced its interim findings following an investigation into the incident on the Brent Bravo platform last month.

Unions have attacked the company for "pointing the finger" at Sean McCue and Keith Moncrieff.

However, the company defended the publication of the report and said it had been taken out of context.

A spokeswoman said: "Shell is not apportioning blame to anyone and we regret the way this report has been interpreted by some people.

Separate investigations

"We promised we would share all important safety information as early as possible and we will continue to do so."

Shell Expro, the Health and Safety Executive and Grampian Police are conducting separate investigations into the incident.

Mr McCue, 22, from Kennoway, Fife, and Mr Moncrieff, 45, from Invergowrie, Tayside, were overcome by gas while working on patched pipework in a leg of the platform.

Brent Bravo is located 116 miles north east of Shetland.

Part of the company's interim report says that one of the two technicians had apparently slackened one hose clip.

> **"We promised we would share all important safety information as early as possible and we will continue to do so"**
>
> Shell Expro

It said this had caused a "significant" leak from the pipe.

"The rate of the release and quantity of gas was sufficient to rapidly overcome the two technicians, who did not put on their emergency rebreathing apparatus," it said.

Jake Molloy, general secretary of the offshore trade union OILC, said the report had left more questions than answers.

"While Shell claim it is a statement of fact, it is the way that it is phrased that is causing so much anger amongst the workforce," he said.

"It is difficult to read it any other way, other than it is

> **"To even suggest that**

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pointing the finger at the two lads who died.

"It is highly insensitive to put this report out to a workforce still grieving the loss of their colleagues."

these lads caused the leak... beggars belief as there should not have been any gas there

Jake Molloy
OILC union

He said the intensity, speed and volume of the gas debilitated the workers so quickly that they did not have time to put on emergency breathing equipment.

"To even suggest that these lads caused the leak - the way it is phrased - beggars belief as there should not have been any gas there," he said.

"The two lads could never have anticipated that level of gas in the line."

However, he was confident that any suggestion the men were to blame would be "completely removed" once all the facts were known.

REFER TO SUBMISSION TO HOLYROOD JUSTICE COMMITTEE. IT HAS TAKEN 15 YEARS FOR THE FAMILY TO LEARN THE HEART BREAKING FACTS

NC
NOV. 2018.

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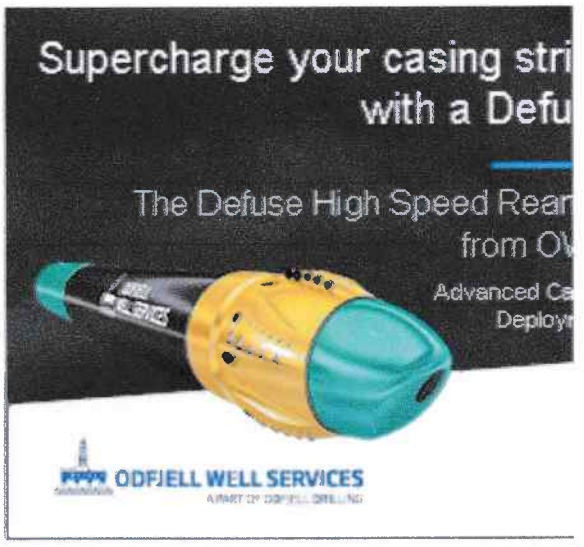
NEWS

Rig Workers Angry Over Report from the Brent Bravo Incident

2dayuk |



Furious rig workers have hit out at oil giant Shell Expro for blaming two of their colleagues for their own deaths.

Sean McCue and Keith Moncrieff were killed last month following a massive gas release while they were working on patched pipework in a leg of the Brent Bravo platform.

Only weeks before the tragedy oil unions had raised concerns about a backlog of maintenance on the rig.

But a report, released to workers on the Brent Bravo, firmly puts the blame on the two men, sparking angry scenes on the platform.

The report stated: "A hose clip on the drain line patch had been slackened on an unisolated line, apparently by one of the technicians, causing a significant leak from the pipe eventually resulting in a gas condensate, flashing to a heavier than air gas mixture in the leg.

"The rate of the release and quantity of gas was sufficient to rapidly overcome the two technicians who did not put on their emergency breathing apparatus."

Workmates of Mr. McCue, 22, of Kennoway in Fife, and Mr. Moncrieff, 45, of Invergowrie, Tayside, were called in for a meeting to discuss the report last week.

And almost immediately the men contacted Jake Molloy, of the highly-influential Offshore Industry Liaison Committee (OILC), to vent their anger. The one page report into the causes of the accident has also caused extra grief to the heartbroken families of the two men. However, Shell Expro denied they were apportioning blame to

Scottish Trades Union Congress

Response to Review of Fatal Accident Inquiry Legislation

Introduction

The STUC is Scotland's Trade Union Centre. Its purpose is to coordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland; reflecting the aspirations of trade unionists as workers and citizens.

The STUC represents over 640,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy. Our representative structures are constructed to take account of the specific views of women members, young members, black/minority ethnic members, LGBT members, and members with a disability, as well as retired and unemployed workers.

The trade union movement in Scotland campaigns for safer working conditions for all Scottish workers and remains concerned that work related fatal injuries in Scotland show no signs of improvement year on year, and remain higher than that for England and Wales when calculated on a pro rata basis. Statistics from the HSE website for the years 2003 to 2008 are attached as Appendix 1.

As an organisation the STUC works with our legal representatives and organisations such as Families Against Corporate Killing and asbestos groups to ensure that families of workers killed at work in accidents or as a result of occupational disease receive justice as well as answers as to why their loved ones were killed.

Without exception families, in addition to seeking these answers, are keen to ensure that other workers do not suffer the same fate as their loved ones and their families do not have to endure unnecessary pain, suffering, and a tortuously lengthy judicial process. In cases where the defendant enters a guilty plea and, as a result little evidence is led in Court, there is then an additional wait until a Fatal Accident Inquiry takes place and the circumstances that led to the incident are aired in public.

community. Addressing the health and safety failures of organisations on a piecemeal approach following fatalities will take a significant number of deaths to make our workplaces safer unless more pressure is put on all employers to access the database and review their own practices in the light of the determinations.

We would also suggest that a Judge should set a review date, as part of the determination, where the employer, any regulator involved and the bereaved families return to court to assess the success or otherwise towards implementing the recommendations. This would ensure that some of the concerns regarding accountability of regulators

22. Should the Lord Advocate be able to apply for a further FAI or the re-opening of an FAI? If so, should this only be in limited circumstances?

We believe this power would only be required in exceptional circumstances, such as the Brent Bravo fatalities, but feel it is important that there are opportunities for bereaved families to challenge the findings where they believe the full circumstances relating to the death have not been discussed, evidence either not heard or not available to the inquiry or the inquiry has been properly conducted.

Para 'B'

The Lord Advocate should consult with bereaved families shortly after proceedings to assess whether they feel that all the issues important to them have been addressed.

Realistic limits would have to be set for reopening FAIs to ensure that applications to reopen FAIs are not being made in respect of inquiries held many years before the application.

impose a statutory timeframe for the start of an FAI. We also contend that the fact that an FAI is usually mandatory is undermined by the lack of statutory certainty over the timeframe within which the FAI must start.

In RMT's experience, criminal proceedings into the circumstances of deaths at work do not necessarily guarantee justice for the families of victims or meaningful lessons for the industry over the safety of its future operations. For example, the FAI into the deaths of two offshore workers, Keith Moncrieff and Sean McCue on the Brent Bravo platform on 11 September 2003 only took place after concerted trade union pressure. This campaign was necessary because the employer, Shell pleaded guilty to all charges at the criminal trial. Although Shell was fined (£900,000, reduced because of an early guilty plea) and corporate culpability for the deaths of the two workers was established, the trial itself did not provide meaningful justice for the families, so an FAI was the only alternative.

Para (c)

However, Sheriff Harris's determinations, issued July 2006 were necessarily limited to the circumstances that led to the deaths of the two workers in question but provided clear grounds for action to improve the safety of repair operations on aging offshore hydrocarbon extracting platforms. Yet the lack of compulsion on Shell to respond makes it difficult to see how effective these determinations were in making the necessary operational and safety improvements, at that company and across the industry. We do not see the Bill as a means of substantially reducing delays in the FAI process or improving the overall effectiveness of determinations issued by the sheriff.

We acknowledge that this is a difficult area and we withdraw our previous proposal for a three month timeframe. FAIs should not, of course impede the full and detailed investigation of workers' deaths, particularly in complex circumstances like offshore helicopter incidents. However, we believe that the Bill as framed does not strike an effective balance between investigatory processes, the needs of victims' families and the adoption of new working practices or other changes to avoid potentially fatal industrial circumstances being repeated in the future. In our view, addressing the time lag between the death of a worker and the start of an FAI must be the focus of any legislation that seeks to make the FAI process more effective and efficient.

- **Clarity on the input of trade unions into the FAI process** – RMT continue to seek clarity on the role trade unions can play in the reformed FAI process envisaged by the Bill. Trade unions play a vital role in supporting and advising the families of victims of workplace deaths and in assessing workplace safety standards, both existing ones and those that may be introduced in response to a sheriff's FAI determination. As such, we believe that trade unions need to be named in the Bill as organisations that are entitled or likely to be entitled to submit evidence as part of an FAI.

- **Extension of the Bill to cover deaths caused by industrial illnesses** – We believe that this would be an effective means of requiring companies to maintain employer liability insurance records, in order to avoid any repeat of the tragic and unjust situation faced by mesothelioma sufferers who cannot

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Last Updated: Tuesday, 14 June, 2005, 21:51 GMT 22:51 UK

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Offshore deaths inquiry ruled out

The procurator fiscal in Aberdeen has rejected calls for a fatal accident inquiry into the deaths of two offshore workers, BBC Scotland has learned.

The families of Sean McCue (left) and Kevin Moncrieff wanted an inquiry

The men's families have reacted angrily to the decision after campaigning for an inquiry into the incident on Shell's Brent Bravo platform.

Sean McCue, 22, from Fife and Keith Moncrieff, 45, from Dundee, died after a massive gas escape in September 2003.

Earlier this year, oil firm Shell was fined £900,000 following the deaths.

Shell had admitted breaching three health and safety regulations and it is thought to be the biggest fine imposed on a company following a North Sea accident.

Sheriff Patrick Davies said "a substantial catalogue of errors" caused the deaths of the two men.

He said any fine had to be substantial but he took into account that Shell had tendered guilty pleas at an early stage.

> **"Since January 2000 we have had 11 deaths offshore, but only two FAIs"**
>
> Jake Molloy
> OILC

The families of the men and offshore union leaders had hoped a fatal accident inquiry would shed more light on the tragedy.

Mr Moncrieff's brother Neil, said he was "extremely disappointed" at the fiscal's decision not to hold an FAI.

Mr McCue, from Kennoway, and Mr Moncrieff, from Invergowrie, had been working on a utility leg of the platform.

The two men had been asked to look at a temporary repair patch on a safety-critical pipeline in the leg. The patch had been in place for 10 months.

Jake Molloy, of offshore union OILC, said he was "struggling to find any justification for not holding an FAI".

'Lessons not learned'

"There are two reasons for holding an FAI," he said.

"The first is to establish the full facts of what occurred and the other is to learn lessons to prevent any reoccurrence.

"We certainly don't know the full facts of what happened and

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ANDREW MONCRIEFF COMMENTS

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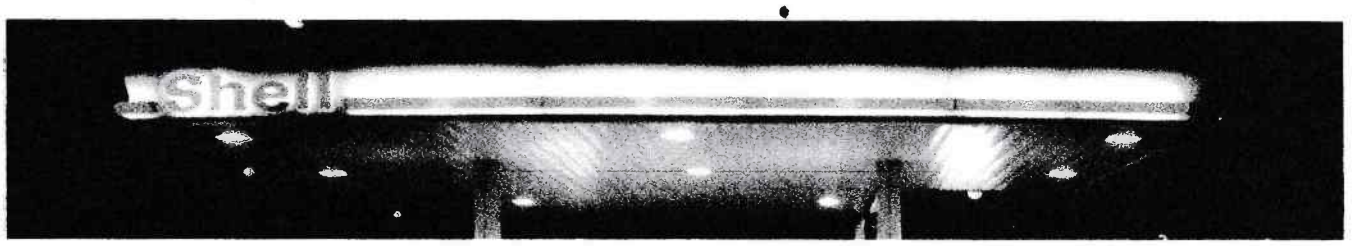

Daily Record: ANGER AT OIL RIG FAI OUTCOME

Jul 19th, 2006
by admin.

RELATIVES of two oil workers killed in a North Sea tragedy yesterday attacked the findings of a probe into their deaths.

Keith Moncrieff, 45, of Inver-gowrie, Perthshire, and Sean McCue, 22, of Kennoway, Fife, died after a gas leak on the Brent Bravo platform in 2003.

In the Fatal Accident Inquiry ruling, Shell were told they could have prevented the deaths with a better safety system.

But Sheriff Colin Harris said some evidence was beyond the scope of the FAI, leaving the victims' relatives fuming.

Mr Moncrieff's brother Andrew said: "I was hoping there would be something implemented so Keith wouldn't have died for nothing."

SHERIFF ALLUDES PUBLICLY TO EVIDENCE BEYOND SCOPE OF FAI.

Posted in: Uncategorized.

← The Herald: Shell failed to learn Piper Alpha lessons
Dumbartonshire.co.uk. UK: New calls for corporate killing law →

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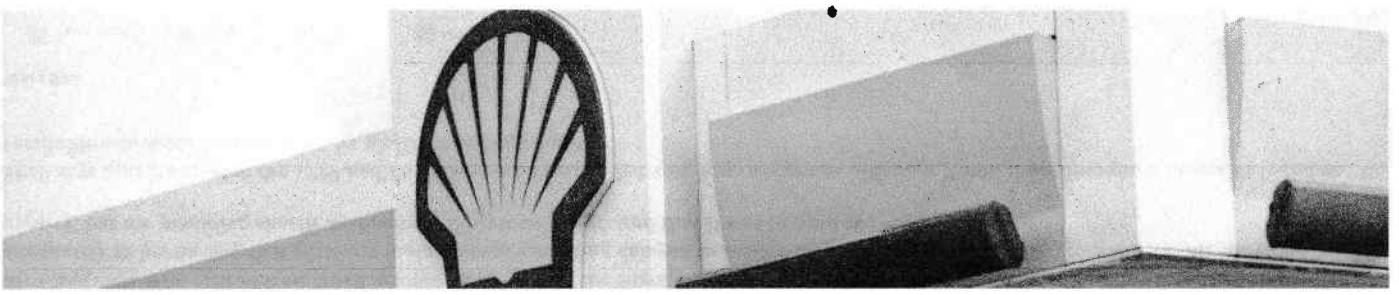


The Times: Unions call for manslaughter law after Shell deaths inquiry

Jul 19th, 2006
by admin.

By Carl Mortished

OFFSHORE oil unions have called for corporate manslaughter legislation in Scotland after the conclusion of a fatal accident inquiry into the deaths of two workers on a Shell North Sea platform.

The six-month investigation into the deaths on Brent Bravo in September 2003 concluded that the accident could have been avoided if Shell had done a proper repair of a pipe. The inquiry did not draw any wider conclusion from its finding. **The OILC union said yesterday that Shell had been given a "Get out of Jail Free card".**

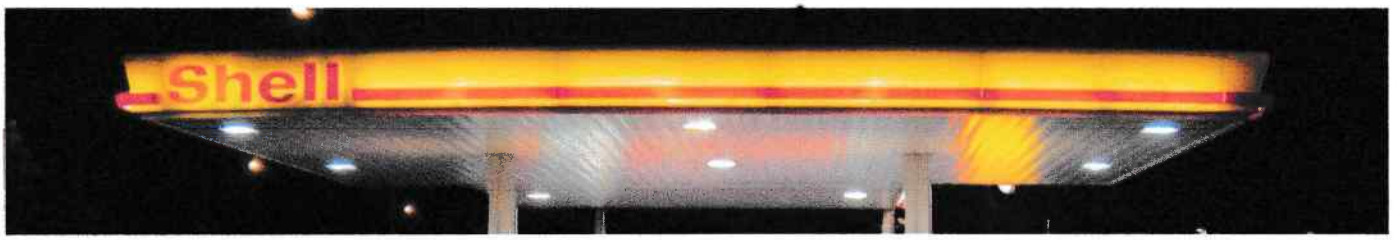
The victims, Keith Moncrieff and Sean McCue, died from a huge gas escape from an illegal repair to a corroded pipe when they descended into the concrete leg of the platform to make an inspection. The repair, done with neoprene rubber and a hose clip, was against regulations, the inquiry found.

In 2004, Shell admitted three breaches of health and safety rules and was fined £900,000. It said yesterday that it accepted the inquiry findings.

Concern about North Sea safety and the condition of rusting platforms grew last month when Bill Campbell, a former Shell engineer, revealed details of a platform safety maintenance review done in 1999 on Brent Bravo. His audit team found widespread violations of safety procedures and alleged falsification of records.

Mr Campbell, who retired from Shell in 2002, believes that the Brent Bravo deaths could have been prevented had the company responded adequately to his finding that platform maintenance was being delayed to sustain oil and gas output. He tried to put his evidence to the inquiry, but the presiding sheriff declined to admit it on the ground that it was beyond the inquiry's scope.

Shell says that it accepted the 1999 audit's findings and responded with improvements, although it said that subsequent inquiries found no verifiable evidence of falsification by platform management.



ThisIsNorthScotland.co.uk: UNIONS TELL LEADERS: NO GET OUT OF JAIL CARD FOR BOSSES OVER DEATHS AT WORK

Oct 3rd, 2006
by admin.

DAVID PERRY
IN MANCHESTER

08:50 – 29 September 2006

Angry trade union delegates inflicted a third major defeat on Labour leaders yesterday, insisting company bosses must face jail if found personally responsible for deaths at work.

Oil company executives would have been in danger of being liable to imprisonment over the Piper Alpha disaster 18 years ago or the deaths of two workers on Brent Bravo in 2003 if the proposed law had been in force then.

A rebel union motion, opposed by the ruling National Executive Committee, was backed to cheers in a show of hands at the party conference.

MPs will be faced with decisions on the Government's corporate killing bill, which proposes unlimited fines for companies rather than personal jail sentences for executives the day after the Commons resumes next month.

Moving the successful motion, Tony Woodley, T &G general secretary, said: "The bill completely and deliberately excludes from its scope the prosecution of negligent directors, guilty directors who will be handed a get out of jail free card."

The Government was "plain wrong" he angrily told delegates. "They are pandering to the pressure from the CBI and the bosses.

"Organisations don't kill people. Incompetent, negligent, greedy bosses do. And they are quite literally getting away with murder," he added to applause.

Mr Woodley continued: "Where individuals are shown to be culpable, they should face prosecution for manslaughter.

"If death by dangerous driving deserves 14 years in jail, then the loss of a worker's life through the bosses' mismanagement deserves no less."

The NEC said in a statement that directors would still be liable for manslaughter on an individual basis if they had been grossly negligent.

Aberdeen North Labour MP Frank Doran, who was involved in helping Piper Alpha families, said later he was not surprised by the overwhelming defeat of the platform position that the new law should make it easier to prosecute employers but as companies rather than individuals.

He said: "The legislation is about management culture and many of us, including me, believe we would only change the way management behave when the managers themselves are held personally liable for their own negligence."

Graham Tran, northern organiser for the trade union Amicus, said: "I would have been wholly disappointed if there had been continued watering down of legislation on corporate manslaughter so I welcome this defeat.

"The message to the Government is that the trade union movement has no intention of relaxing its attitude and approach to this matter."

But Aberdeen South MP Anne Begg said: "I can understand the unions' and workers' anger because they want someone to be taken to court and found guilty when there has been a clear failure of management in ensuring worker safety but it is also a Government responsibility to get a workable law.

"The danger of making chief executives personally culpable is that there is no way of proving a link between their actions and the death of an individual.

"The last thing I want to see is prosecutions failing because we did not draw a law tightly enough to ensure successful prosecutions."

The other two defeats concerned Labour policy in England demanding government funding for new council housing and opposing a further privatisation drive in the NHS.

Miss Begg insisted that the conference week had been "a lot more positive than I was expecting".

Mr Doran said that apart from Cherie Blair's "liar" jibe at Mr Brown, it "has been a good week" focusing on policy.

He added: "Gordon came out of the week stronger."

Ochil and South Perthshire MP Gordon Banks said the defeat on corporate killing issue would have little effect because the Government had to decide practical matters.

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1 TWEEDSMUIR COURT
GLENROTHES
FIFE
KY63QL

22 May, 2005

Mr B Bainbridge
Principal Inspector
Offshore Safety Division
HSE
Lord Cullen House
Aberdeen

Personal and Confidential

Dear Sir

Fatal Accident Brent Bravo 2003, should it have been avoided?

Following on from our meeting 28th October 2003 I made Shell, through the MD of Shell T&T, aware that I had revealed the findings of the PSMR to the HSE. This I did in a letter (21/12/04) complaining about his conduct and his inappropriate reaction to the 1999 internal audit findings when he was CEO of Shell Expro. I have had no formal reply to this letter, which coincidentally is in conflict with the Group General Business Principles re concerns raised by shareholders. I think this is because the information and general allegations within the letter are incontestable.

As a result of the letter a Shell internal investigation is just starting and is ongoing led by the Group Chief Auditor. I am not hopeful of any meaningful outcome.

At our meeting in 2003 you were of the opinion based on your knowledge of the fatal accident that there did not seem to be a direct link between the findings in 1999 and the causes of the fatal accident. However I have, through contacts with the Brent Bravo, been able to build a compelling case that there is a remarkable synergy between the events, particularly in that the prevailing, and negative safety culture persisted from 1999 till the time of the fatal accident.

I wrote again to the Board of Shell on 18th May explaining these concerns with a comparative analysis to support my claims (see attached with this Note). Much of the data I use in the analysis is from confidential data extracted from a technical integrity review instigated by the Shell Production Director in Aberdeen after the fatalities. I requested information from the Group Chief Auditor as to whether the HSE was made privy to this technical integrity review data but an answer was not forthcoming.

I have informed Shell via the Group Chief Auditor that it was my intention to communicate my concerns and the comparative analysis (in the public interest) to the HSE unless Shell could justify me not doing so. No such justification was forthcoming hence the letter and attachments.

On 28th October 2003 you did ask me what I wanted done with the information you received in confidence from me. I said you should use it to better train inspectors, enhance the investigatory process etc but you should also consider **retroactive prosecution of Shell** for the offences carried out in 1999 if you could determine causal linkage between the events of 1999 and 2003. My assumption is that you did not establish such linkage. If I look at the prosecution justifications they relate to specific deficiencies present on the 11th September 2003. Perhaps you can clarify this point.

One of the PSMR teams principal concerns in 1999 was that Managers and Directors were made aware of the debacle that was Brent Bravo (and Brent in general) by mid September that year. The concerns raised by the workforce re maintenance compliance and the Touch F All policy were valid, in fact the situation was worse, much worse. Despite this the Operation Director persisted (against our recommendations) in giving false and misleading information to the public

* I WAS INFORMED MY EVIDENCE FROM 1999 WAS NOT RELEVANT TO THE DEATHS, THAT IS VERIFIED IN A MINUTE FROM 28/10 MEETING

and the HSE in such a manner as could be construed to have intentionally obstructed your investigation into these matters - Regulation 33 (1 h and k) of the HSW Act refers.

This truncated your investigation and you therefore failed through your lack of intervention to reduce the risks to persons on board Brent Bravo via the implementation of enforcement Notices.

The message in 1999 was unequivocal. It said that the risks in the continued operation of Brent Bravo were above ALARP and likely to be in the intolerable region. These risks would remain in this region if no immediate and appropriate short and long term actions were taken. The offshore staff in the Brent Field have been well and truly conditioned by their Management to the degree where to violate and deviate was the norm. It was just a matter of time till an undesirable event transpired unless accountable Managers and Directors took appropriate and immediate action. They did not take such action and any actions they did take were not sufficient to correct the deficiencies and weaknesses clearly present on the 11th September 2003.

Was the conduct of the Directors in failing to react appropriately to the PSMR findings, whilst accepting the continuation of production on Brent Bravo with risks in the potentially intolerable region, not an offence under Regulation 37 of the Act i.e. Offences by bodies corporate?

- **My wish is that you should consider prosecuting Shell Expro for the shortcomings of its Managers and Directors in position at October 1999. Various offences were committed at that time clearly verified by their internal audit to be with their consent and connivance. They, in not reacting appropriately to negate these offences, neglected their duty of care to their direct and indirect employees on Brent Bravo. This neglect led inexorably to the events of the 11th September 2003.**

- **My wish is that the information contained in this letter could be discussed with the Crown authorities to determine if it is useful to the debate as to whether a Fatal Accident Inquiry should take place.**

Given the nature of this request I guess you will copy me a formal reply. I have no concerns with you showing and discussing the details of this letter and the attachments to Shell Expro. As stated previously I informed Shell already that I would write to you.

Sincerely

W Campbell

Bill Campbell BSc MIEE C.Eng.

(At September 1999 the Shell International Exploration & Production (SIEP Lead Auditor for the final stages of the PSMR)

Bill Campbell
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RTL Global Consultant

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REPLY ON BEHALF OF LORD ADVOCATE
COLIN BOYD FROM Solicitor General

None of these exemptions are absolute exemptions and therefore, having concluded that they apply I am obliged to consider whether, nonetheless, the public interest favours disclosure. The 'public interest' is not defined by FOISA, but it has been described as "something which if of serious concern and benefit to the public", not merely something of individual interest. It has also been held that the public interest does not mean "of interest to the public", but "in the interest of the public".

While I appreciate you that have a personal interest in obtaining the information, I must consider whether there is a wider public interest in its release to the general public. I have concluded that there is not.

The internal reports which are held in respect of this matter were prepared by the Procurator Fiscal for Crown Counsel for the purposes of allowing Crown Counsel to reach decisions in respect of criminal allegations and in terms of the Lord Advocate's responsibility to investigate all sudden, suspicious, unexpected and unexplained deaths. The material was, therefore, held by COPFS, for the purposes of an investigation which the authority had a duty to conduct to ascertain whether a person should be prosecuted for any offence, in terms of section 34(1)(a) of FOISA; and for the purposes of any investigation being carried out in terms of a duty to ascertain the cause of death of a person, in terms of section 34(2)(b)(i) of FOISA. As such reports contain summaries of information ingathered in the course of an investigation into a death, or alleged criminality, I consider that there is a high public interest in ensuring that they are protected from release to the public, in order that individuals are not deterred from sharing information with the police, or the prosecution authorities.

On the basis that I consider the provision of information by witnesses to the Crown, without fear that such information will be released save in the context of court proceedings, with all of the procedural safeguards which attach, I consider that such information would also be exempt in terms of section 35 of FOISA. In particular, I have reached the view that release of information of this nature would also be exempt on the basis that it would, or would be likely to prejudice the prevention or detection of crime; the apprehension or prosecution of offenders, and the administration of justice. I therefore consider that all of information sought is exempt in terms of section 35(1)(a),(b) and (c) of FOISA. Again, having considered the public interest I am satisfied that the public interest in this instance falls in favour of maintaining the exemption. I have concluded that witnesses provide information to the Crown and investigating authorities in the expectation that that information will not be released to the general public, save for within the context of court proceedings.

In respect of the reports prepared by the Procurator Fiscal, I have also reached the view that the reports are exempt from disclosure in terms of section 30(1)(b)(ii) of FOISA, in that their disclosure would be likely to inhibit substantially the free and frank exchange of views for the purposes of deliberation. In reaching this view I have had regard to the fact that, traditionally, a high degree of confidentiality exists in respect of such internal reports prepared for the consideration of Crown Counsel. I am satisfied that the release of information in this manner would inhibit the full and frank disclosure of views and analysis of evidence by Procurators Fiscal, who require to submit frank and full reports to Crown Counsel for the purpose of taking decisions in serious and sensitive criminal investigations. Again, the exemption contained in section 30(1)(b)(ii) of FOISA is not an absolute exemption and I have, therefore, required to

LETTER FROM BILL CAMPBELL TO SENIOR PROCURATOR FISCAL DEPUTE (also copied to Sheriff Harris, and the Lord Advocate): 24 February 2007

24th February, 2007

Mr E Barbour

Senior Procurator Fiscal Depute

Atholl House

84-88 Guild Street

Aberdeen

AB11 6QA

Dear Sir

Fatal Accident Brent Bravo and subsequent Inquiry - without prejudice

I wrote to you on 8th November 2005 providing you with evidence that I wished presented at the Fatal Accident Inquiry. That evidence was not presented as I understand it you thought it to be quote unsolicited, the ranting and ravings of a disgruntled ex Shell employee unquote, or at least that is what you are alleged to have said.

I took this allegation to the Lord Advocate in December 2005, and have discussed indirectly with the then Solicitor General and must say to you that your employers have never, in any direct correspondence to me, disputed the allegation. Anyway, I wish you to know that this allegation has been well circulated, to the BBC and various London newspapers. They have never published anything but nevertheless you should be aware that your character and your motivation in the handling of the evidence have been questioned in the public domain. All independent persons, lawyers and non-lawyers when presented with the evidence consider it incredulous that you did not view it as relevant to

The Fatal Accident Inquiry

Previous public inquiries into major accident events in the North Sea have been open and objective, for example, the Inquiry into the helicopter accident at Cormorant Alpha heard by Sheriff Scott in 1992/3 drew forth many recommendations to reduce risks in flying operations. That is what the public wants, not to apportion blame so much as to stop similar accidents happening again. And this of course is enshrined in the 1976 Act that the underlying causes of death should be established and importantly what steps might have

been reasonably taken prevent the deaths and importantly to prevent similar accidents in the future. This can only be done if the root causes of the accident are determined, without such accurate diagnosis, no effective prognosis can be established. In the attachment Progress with Safety is made a case via a comparative analysis that the common failure modes present on that fatal day had persisted for 4 years and ironically you support this. In a note from the LA to my MSP in July last year she states quote the PF has assured me that throughout proceedings there was evidence led to suggest that the deaths had occurred as a result **of failures over a long period of time**, not failures that had arisen just prior to the deaths unquote. There is not much evidence of the leading of that evidence in the transcripts, and the Sheriffs determination doesn't look further back in time than the 17th August 2003.

If these failures had developed a long time ago and were allowed to persist for this period, any Inquiry would have attempted to ask the basic question of why this had been allowed? This being particularly relevant in an area of the world, the North Sea where the residual risks are higher perhaps than anywhere else in the world. And in an industry served by the best, and most sophisticated legislative regime to be found. A regime founded on the recommendations of the esteemed Lord Cullen with the purpose to prevent or reduce as far as is reasonably practicable, such major accidents.

When asked in 1995 as part of research for the Scottish Crown Office, 11 out of 49 procurator fiscal and 2 advocates depute described what they wanted from a FAI. This was that it should be quote **a public ventilation of all the facts** unquote. Well it seems that you and Sheriff Harris put paid to all that stuff and nonsense and are reported to have held the most restrictive public inquiry ever held under Scottish law. Solicitors complained about evidence not being put forward, of resigning, even the Counsel for Shell at one point was to join in and complain to the Sheriff. It was all a bit of a shambles and I painted this picture to the Solicitor General last year and she did not reply to refute this description.

Both the Crown Agent in January 2006, and the Solicitor General in discussions with my MSP place credence on a Report you have allegedly sent into Chambers Street explaining how you handled the evidence. It is generally explained as 'we have viewed the Report from Mr Barbour and consider that your evidence was handled appropriately by him', or words to that effect. What I say to this is prove it by disclosing the Report. I doubt if the Report exists. Certainly under the Freedom of Information Act I cannot obtain it, it has been denied, and my appeal, which has gone well beyond the mandatory 40 days, is unanswered. If the Report exists, and if it is credible, why can't it be brought forward? I even offered to read the Report in camera at Chambers Street. This is all covered in the submission to get access to your Report.

In discussions with the HSE, as enforcing authority, they say that the decision in 2005 on possible prosecution of Shell for alleged wrongdoings in 1999, and as to whether the evidence should be led at a future Inquiry was all yours, and yours alone. After a period of several iterations, and the bringing forth of evidence from the files of the HSE under the Freedom of Information Act, the HSE admitted on 31st August last year, at a meeting in Aberdeen that my evidence was not handled via the formal complaint process.

This is recognised to be a serious admission because their official who discussed the evidence with you, in a meeting reputedly of short duration, could not on his own assess the worth of the evidence. The evidence **was technically complex** and the process calls for a multi-disciplined team approach including legal input before a report is eventually passed to the CPS. Such a report was never handed to you. Further the CEO of the HSE in the UK wrote to me to explain that at the meeting of short duration no evidence was ever physically handed over to you so your only grasp of the import or efficacy of the evidence must have been established at the short duration meeting alone. It is also established I think as fact unless you disagree, that you are no doubt a Solicitor of some worth, with an acute understanding of the Law, but you are not a technical specialist and ipso facto could not, even if you had wished to, make any comment of any worth about the evidence without competent input from the enforcing authority.

So then, all that said, what could you possibly cover in your Report. I note that a Report is by general definition a work of substance, not a briefing note, or a letter, or a memorandum, but a Report, with introduction, analysis and summary. Given the way the evidence was apparently handled I would love to see the Report, but the CPS are so confident in its worth that it is buried in some deep hole in Chambers Street, that's if it even exists.

These allegations **will be made public** in due course and if you have **any reason in Law** for me not so doing then please raise it with me formally or forever hold your peace. If you wish to look through the electronic attachment Progress with Safety you will see that endemic weaknesses existed in the Brent field for at least 48 months before the accident. Directors of Shell Expro were aware of these weaknesses and took no reasonable action to eradicate them. That was the root cause of the deaths. Sadly the trauma of the deaths has not changed things, rather the situation now is worse, much worse. In the attachment you witness an increase of almost 300% in enforcement actions post the fatalities with no change in the negative safety culture so apparent in 1999 and 2003.

Your actions, and a Determination by the Sheriff of little worth since **the Sheriff did not hear** the appropriate evidence, contributed to the continuance of a negative safety culture from 2003 and beyond up to late 2006 according to the data available to the public. I consider it a reasonable assertion that if Sheriff Harris had heard the full evidence then his recommendations forthcoming from the Inquiry would have reinforced a damaged and ineffective offshore safety regime. The full evidence would have assisted the Sheriff in getting to the root cause of why these conditions relevant to the deaths persisted for such a long period.

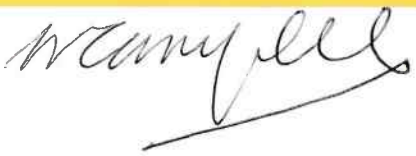
- The Sheriff did not hear that in 1999 Directors of Shell were informed that the Brent Bravo was being operated at high risk levels and immediate actions recommended to reduce these risks were never undertaken. He did not hear that an internal investigation undertaken by Shell International in 2005 confirmed the above and as importantly that longer term actions to reverse the negative safety culture through correcting the bad behaviour witnessed both in 1999 and 2003 were truncated when only 20% complete

- The comparative analysis in the attachment viewgraphs 67 through 88 show that the common failures resulting in the deaths on that day. These relate to the purposefully

and sadly a missed opportunity to force improvements on the Duty Holder, enforcing authority and industry per se. I sincerely hope you do not live to regret it, but I fear you might, if things don't improve, and improve significantly. I would welcome any comments, or criticism of the contents of this Note, as previously stated it will be published in some form or another in due course.

Sincerely, Bill Campbell DMS. B.Sc. MET C.Eng.

PS: This note has been copied to Sheriff Harris ,and the Lord Advocate



Bill Campbell. DMS. MIBM. MIEE. B.Sc. C.Eng.

Background of Author - In 1992 to 1996

I was Head of Operations and Maintenance Strategy for Shell Expro based at Tullos Aberdeen. Many of the Codes of Practice deviated from as illustrated in this submission were issued and approved by me, in Shell parlance I was the Technical Authority.

Shell U.K. Exploration and Production

Bill Campbell
Head of Maintenance and
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UEOO/3

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1996 onwards

Having been transferred from Aberdeen in 1996 to The Hague, at the time of the 1999 Audit I was asked to lead the Audit into the Management of Safety by the Internal Audit Department (UEFA) in Aberdeen. I was what was called a Global Consultant for Operations and Maintenance Strategy development worldwide, and their Senior Maintenance Engineer - under employment with Shell Exploration and Production (SIEP), located at the Research and Technical Services laboratory in The Hague. Also, during that period, a Technical Auditor charged with leading such Health, Safety and Environmental audits worldwide. In this role in 1999 was under contract employed as Lead Auditor assisted by operational auditors from Aberdeen, and the ongoing results of the Audit, and the Audit itself, was carried out on behalf of Chief Internal Auditor in Aberdeen. The Audit had as its objective to review, the Management of Safety in Shell Expro operations, at the time. From 2003, I was re-employed by Shell following retirement, under contract with (SIEP), to carry out such audits, the contract extended to 2008.

Bill Campbell

Bill Campbell
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RTL Global Consultant

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as a true testimony of the facts as described in this submissionP