



# THOMAS BURNS

Murdered by the British Army, 13th July 1972

REPORT COMPILED FOR THE BURNS FAMILY BY RELATIVES FOR JUSTICE



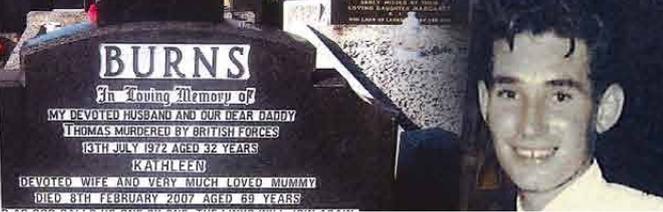
*The untold stories of Relatives, Victims and Survivors*



Why inquest delays keep y from 'learning truth'



Bradley meets victims' relatives to say sorry as they insist she must step down



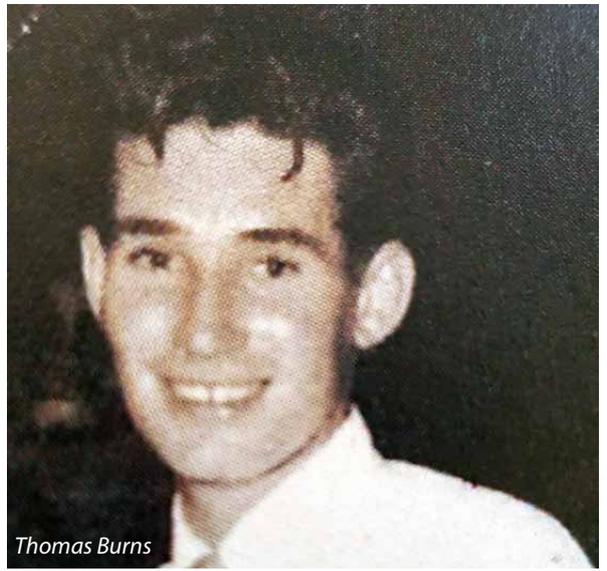
bereavement, and injury, and of each bereaved relatives' own particular needs form a process.

Family reports are probably most important in the sense of satisfaction achievement they provide - not least to aging relatives and families - who for the first time are able to hold in one place - a family report - all the questions, concerns, thoughts, feelings, fears and views concerning the most unimaginable traumatic experiences of violent bereavement of a loved one.

Breaking a silence and giving voice to what were once unspeakable truths has in its own way also been cathartic within families and this has been an equally important journey.

Too many relatives have passed away waiting on a process, and this area of our work is so crucially important not least for an aging population of bereaved parents, spouses and siblings.

Most of all, it is about providing a form of justice - doing justice to those killed - seeking to right wrong, correcting the historical narrative and remembering.



Thomas Burns

### Introduction: General Context and Circumstances

Thomas Aquinas Burns, more affectionately known as Tommy by his family and friends, was shot and fatally injured by the British Army in the early hours of the 13th of July 1972. The incident happened when he was attempting to leave a social club to go home in Glenview Street, in the republican Bone district of Oldpark, North Belfast. He died in the

hospital hours later as a consequence of his injuries. He was an unarmed civilian and had done nothing to justify being targeted and shot. In common with other stories affecting many hundreds of families who lost loved ones due to the actions of state forces in the years following 1969, the fact is that very few were actually investigated as crimes. Evidence was not collected, and inquests were rushed and often held without family involvement or legal awareness of rights. No investigating policeman ever darkened the door of Tommy's family house to find out about his death. His family is still battling for truth and justice, to clear his name and finally heal the profound wounds this tragedy and the subsequent failure to effectively investigate it has caused to his relatives.



Oldpark Road 1971

However, in order to understand the issues arising in this report about the killing of Tommy, it is necessary to set out the details of his death and address the general climate that existed at the time. 1972, the year Tommy was shot dead, was the worst year of the conflict in terms of fatalities, with the highest death toll compared to any other year between 1969 and 1998. Of the 497 people killed, over half were civilians, including Tommy. 10,631 shooting incidents and 1,853 bombings were also recorded that year,<sup>2</sup> and most of these 'incidents' were concentrated on certain hotspots, namely West and North Belfast.

<sup>2</sup> Information compiled from the book 'Lost lives' [David McKittrick and others, *Lost Lives. The Stories of the Men, Women and Children who Died as a Result of the Northern Ireland Troubles* (Mainstream 2008)], which chronicles all conflict-related deaths, and the CAIN website (Conflict Archive on the Internet maintained by the Ulster University, <https://cain.ulster.ac.uk/>), which documents information on the conflict in and about the North of Ireland.



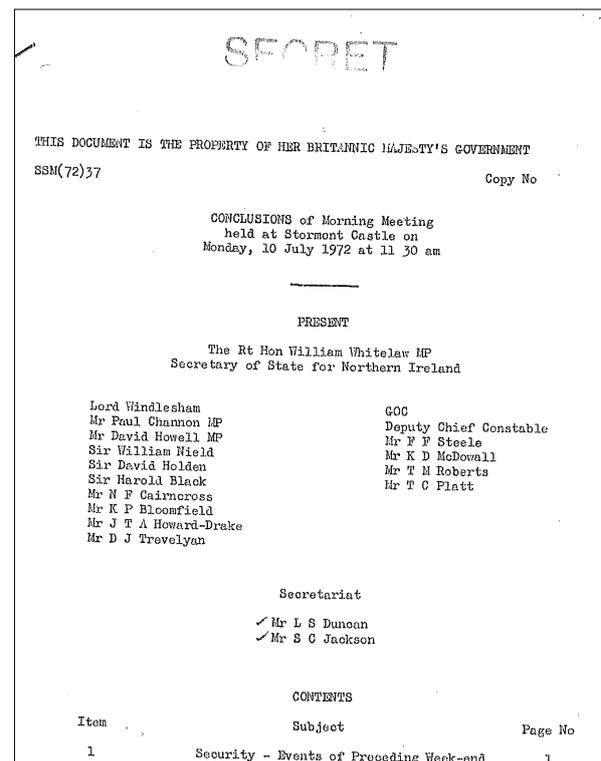
1972 started with one of the most horrific events of the conflict. On the 30th of January of that year, British Army paratroopers shot 13 people dead during a civil rights march in Derry, and another 13 were injured as a consequence of the shooting, one fatally. This day became known as 'Bloody Sunday', and it had huge repercussions, being the event that defined 1972 for many. This led to a wave of protests right across Ireland, increased violence, increased recruitment to the IRA, and the suspension of Stormont by the British Government on the 30th of March 1972, the region being put under direct rule from Westminster.

The IRA called a ceasefire in June to accommodate talks with representatives of the British Government - with the then Secretary of State (SoS) William Whitelaw among others -, but the "bi-lateral truce" ended on the 9th of July. The British Army killed five people in the Springhill area of Belfast that day, and it was also the beginning of what is known as 'the Battle of Lenadoon', a series of gun fights over six days between the Provisional IRA and the British Army - Loyalist paramilitaries and the Official Irish Republican Army were involved in some of the incidents - having started in and around the Lenadoon Avenue area and spreading to other places in Belfast. The North of Ireland suffered 12 days of violence after that, leading to the 21st of July, when the IRA planted and exploded 22 bombs in Belfast. In the space of 75 minutes, 9 people were killed and approximately 130 seriously injured in Belfast. This day became known as 'Bloody Friday', another dreadful day of violence in Ireland.

July was especially tragic and violent in 1972, as the relatives of Tommy unfortunately know. Their loved one was killed in that time frame leading to 'Bloody Friday', on the 13th of July, but he was not the only one; seven people were shot and killed in separate incidents in Belfast on that day. Also, three members of the regiment responsible for Tommy's death were shot dead by the IRA within a one-mile radius in the run-up to the shooting of the father-of-four.

Two documents recovered by RFJ from the British National Archives at Kew, London, show that in the days leading up to the shooting of Tommy, the General Officer Commanding of the British Army, Harry Tuzo, planned the attack he wished to undertake once the truce broke down. The first document was a letter to the then SoS William Whitelaw from Tuzo, dated the

9th of July 1972, in which he stated that 'the soldier's means of retaliation must not be too restricted and without necessarily running counter to the principle of minimum force, the rules of engagement must be altered to meet the new situation.'<sup>3</sup> The second document was the record of a meeting that took place at Stormont Castle on the 10th of July 1972 between the Government, the RUC and the British Army.<sup>4</sup> That meeting established an unlawful policy to indemnify British soldiers from prosecution, a virtual amnesty,<sup>5</sup> which could have contributed to Tommy's death and to the deliberate failure to carry out an independent and effective investigation of his killing. In fact, in the 21 days immediately after this meeting, from the 10th to the 31st of July, the British Army killed 14 people. No British soldier has ever been prosecuted for any of those deaths.



- 3 The letter from Lieutenant General Sir Harry Tuzo to the Rt Hon William Whitelaw dated 9<sup>th</sup> of July 1972 was recovered from the archives by RFJ.
- 4 The SoS William Whitelaw, the General Officer Commanding Harry Tuzo, Deputy Chief Constable of the RUC Lord Windlesham, British MPs, and senior civil servants. The document can be viewed online at <https://relativesforjustice.com/wp-content/uploads/2012/06/July-1972-Official-Brit-Gov-Doc-30-yr-rule.pdf> (accessed in August 2019).
- 5 The document states "The Army should not be inhibited in its campaign by the threat of Court proceedings and should therefore be suitably indemnified." *Ibid.* (page 3, point J)

Why inquest delays keep y from 'learning truth'



Bradley meets victims' relatives to say sorry as they insist she must step down



**BURNS**  
 In Loving Memory of  
 MY DEVOTED HUSBAND AND OUR DEAR DADDY  
 THOMAS MURDERED BY BRITISH FORCES  
 13TH JULY 1972 AGED 32 YEARS  
 KATHLEEN  
 DEVOTED WIFE AND VERY MUCH LOVED MUMMY  
 DIED 8TH FEBRUARY 2007 AGED 66 YEARS

**SECRET**

1. SECURITY - EVENTS OF PRECEDING WEEK-END

The GOC, Deputy Chief Constable and others present outlined the events of the week-end in which the fortnight-old Provisional IRA "truce" came to an end. The main features and likely developments were:

1. There were over 200 shooting incidents.
2. Six civilians, including a Roman Catholic Priest, had been killed.
3. The circumstances of the Priest's death were as yet not clear.
4. All Orange Church parades with the exception of that at Portadown had been carried out peacefully.
5. The Security Forces had been fired at in Portadown on the Sunday morning several hours before the later and more serious outbreak on the Suffolk housing estate.
6. In relation to the well-publicised event at Suffolk it had to be recorded that the Army were fired at many times before they replied.
7. The emotive issue of "fighting for houses for Catholics" at Suffolk recalled the situation of earlier years.
8. Barricades were beginning to re-appear in Londonderry.
9. There was still evidence of Catholic support in Londonderry for the Secretary of State's general policies.
10. Of the 17 deaths by violence during the so-called "truce" period, 13 were attributable to the "Provisionals".
11. If the Army did not now attack the IRA the probability was that the UDA would.

After discussion of the political and strategic factors in the new situation the following decisions were taken:

- A. The Secretary of State would return to London immediately to make a statement to the House of Commons in which he would
  - (i) confirm that he had held talks with Provisional leaders in London on the previous Friday;

**SECRET**

- (ii) put the blame for the ending of the "truce" fairly and squarely on the Provisionals who must now take the consequences;
- (iii) announce the Government's intention to carry on the war with the IRA with the utmost vigour.

- B. Lord Windlesham was also to return to London immediately to make a similar statement in the House of Lords.
- C. It would continue to be the Government's aim to keep the Provisionals isolated from the sympathy of the main body of the Catholic community.
- D. The GOC would see UDA leaders that afternoon and impress upon them that while their efforts as vigilantes in their own areas were acceptable, their presence in any riot or shooting situation would not be tolerated.
- E. Further detentions might be necessary.
- F. Those on the wanted list before the ceasefire would no longer be immune.
- G. More troops and material would be needed for the operations visualised.
- H. The UDR would have to be called out and used more widely than before.
- I. Plans were to be produced urgently for the containment of areas known to harbour bombers and gunmen.
- J. The Army should not be inhibited in its campaign by the threat of Court proceedings and should therefore be suitably indemnified.
- K. The Orange parades on 12 July were to proceed as arranged with minor re-routing only where necessary to avoid 'flash-points'.
- L. The next meeting in the series designed to solve the housing problem at Suffolk should take place as arranged that evening, at least to advance a solution, at worst - in the absence of the representatives of the Catholic community - to show that the authorities were still anxious to find a mutually acceptable solution.

L B DUNGAN

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Secret NIO minutes

## Thomas Burns: His life and family memories

Thomas Aquinas Burns, Tommy, was born on the 7th of March 1940 and spent the first years of his life in Cliftondene Crescent, North Belfast. He enlisted in the British Royal Navy as a Store Boy just after his 16th birthday and became Able Seaman, D/J. 952693 two and a half years later. Like many other Catholics from working class areas, joining British armed forces was one of the few ways of getting employment and the chance to visit other countries. He also used the experience to get some qualifications. The ships he served on included HMS Ganges, Excellent, Apollo, Drake, Eagle and Terror. Ironically, he spent four months on the Maidstone, which was to become a prison ship in Belfast Lough during the early years of the conflict. Throughout his service, his efficiency was marked as "Satisfactory" while his character was rated "Very Good" throughout. There is an intriguing reference to a 9-day "Improper Absence" on his service card in August 1957; no-one in the family



Plaza Ballroom, Belfast

knew of this until Patricia got hold of the record, but it is likely little more than a 17-year-old's youthful homesickness.

Tommy was working in the British Royal Navy when he met Kathleen in the Plaza Ballroom, at Chichester Street in the centre of Belfast.<sup>6</sup> Their courtship lasted three years, and they got married in 1960 in the

<sup>6</sup> In a curious coincidence, their son John worked in the same building after it was turned into offices and was taken over by the government department for which he worked. It was still called the Plaza.







*Patricia's first communion at Granny Fanning's house*



*John's first communion at Granny Fanning's house on Gracehill Street, mum holds her young nephew, while Patricia and Martin flank a very smart-looking John*



*Martin and Patricia on a day out at the Waterworks*



*On holiday in England, (back) Kathleen, Stephen and Auntie Roisin (middle) Martin, John, Patricia, (front) cousin Kelley*

It was a house full of laughter. They remember their mum Kathleen saying: "We don't have much, but at least we have laughter."

Tommy was a "very tall man" in the eyes of his children; he still is in their memories. He was a smoker, as were most people at the time (his favoured brand was "Players No. 6") and he loved his Weetabix with cold milk – a memory that still makes his children shudder! He would go to work early every morning. Patricia recalls looking out for him coming home after work and running to meet and hug him. They describe him as 'a good worker, provider, husband and father'.<sup>7</sup> He also liked playing cards and darts with his friends at the weekends, just as on the fatal night a British soldier shot him dead.

Tommy was aged 32 when he was murdered, working full time with four young children; Stephen was 11 years old, Patricia was 6, John, 4 and the

baby of the family, Martin, was only 3 years old. Their childhood was 'destroyed'; losing their daddy has affected and marked their lives. Their mum, Kathleen, had to go out to work straight after the tragic loss of her husband; she had no time to grieve properly and had to take on two jobs to be able to feed her young children, her main and only focus. That 'regimental' routine at home came into its own, even though the children laugh about it now.

Kathleen never spoke about what happened the night Tommy was killed; she was not able to, partly because of the consequences of lies told by British soldiers and the media about Tommy being a gunman. The Burns children felt their family had

<sup>7</sup> Letter to Angela Smith, 16/09/2003.





over to them. Tommy's friends urged them to take him to the Mater Hospital, which was only a 2 or 3 minute drive down the road. Father Dallat arrived at the scene around the same time, and together with Noel, Malachy, Jim and gravely injured Tommy, they finally got on to the military vehicle.

According to the soldiers, the British Army vehicle broke down in the Oldpark Road shortly after leaving the social club. Whilst stationed at the junction with Parkview Street, the 'Pig' was fired on by gunmen,<sup>10</sup> causing Tommy's friends to plead for calm. The shooting stopped and the vehicle limped down to Louisa Street, where there was a British Army checkpoint. According to the witnesses who were in the APC,<sup>11</sup> the British soldiers did not seem too interested in Tommy's situation, and that was made clear when two men in UDA uniforms appeared on the scene. These men were talking with the British soldiers, and they went over to where Tommy's friends and the priest were, to stare and verbally abuse them. They affirm the British soldiers stayed about 15 or 20 yards away from them, and they felt threatened.<sup>12</sup> At the end, Malachy produced his ID card to two soldiers from the British Royal Marines who appeared from the house on the corner opposite to where they were standing. When they saw he was a serving member of the British Royal Navy, they took the UDA men to one side.<sup>13</sup>

After ten or fifteen minutes, a military ambulance arrived on the scene and took Tommy to the Royal Victoria Hospital (RVH) in the West of the city, even though the Mater Hospital was closer to their location. Jim was the only person permitted to remain with Tommy for the rest of the journey, along with Father Dallat. Tommy was admitted at

the Casualty Department at 1:55am, almost one hour after he had been shot. He had been bleeding profusely and he was immediately taken to theatre where he underwent a four hour operation. Tommy never regained consciousness. His heart stopped at 7.35am the same day, some six hours and thirty minutes after he was shot.

Not only did they shoot Tommy, but the British soldiers' delay made saving his life impossible. That is one of the most horrifying thoughts about the incident for the family. Patricia once said: 'I have visions of my daddy lying in the back of a "Pig", bleeding to death, and I can imagine what sort of treatment he was getting, as he was a "suspected gunman"'.<sup>14</sup>

The funeral took place in the Sacred Heart, the same church where Tommy and Kathleen got married, and their children remember it was crowded, full of people.



Tommy and Kathleen Burns' grave in Milltown Cemetery

## Original Investigation and Inquest

The original investigation into Tommy's death was carried out and overseen by the Royal Military Police through their Special Investigations Branch (RMP/SIB), rather than the RUC. This was a consequence of the flawed investigative policy that had been agreed between the military and the RUC Chief Constable in the early 1970s, which allowed the RUC to delegate some investigative functions to the RMP when British soldiers were involved in fatal shooting incidents. It meant that police officers investigating a death caused by a British soldier never got to interview the soldier in question. Professor Patricia Lundy, who carried out research into the HET review processes

10 Malachy Fanning stated "I took to be the PIRA" (statement given to HCC Solicitors on 07/05/2002).

11 Armoured Personnel Carrier (*supra*, footnote 9).

12 The secret document containing the "Conclusions of Morning Meeting held at Stormont Castle on Monday, 10 July 1972 at 11.30am" mentioned before also alludes the cooperation between the UDA and the British Army and the RUC regarding policing in loyalist areas. The document says "After discussion of the political and strategical factors in the new situation the following decisions were taken: (...) D. The GOC would see UDA leaders that afternoon and impress upon them that while their efforts as vigilantes in their own areas were acceptable, their presence in any riot or shooting situation would not be tolerated". This could explain - but not justify - why the British soldiers let UDA men approach the military vehicle where Tommy was in...

13 Both Malachy and Tommy served in the British Royal Navy.

14 Letter to Angela Smith, 16/09/2003.

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y from 'learning truth'



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and procedures in RMP investigations, stated the following in her research paper:

'The role of the RMP officer seems simply to record the facts as described by the soldier, rather than to probe or question with a view to ascertaining whether the action had been justified or whether the soldiers' actions were lawful. The procedure appears to have been to question soldiers as witnesses, rather than to interrogate them as suspects, thereby dispensing with the need for formal cautions. The adequacy of RMP investigations was examined in the Saville Inquiry; the following evidence from a military witness captures the statement taking process: "It was not a formal procedure. I always wore civilian clothing and the soldier was usually relaxed. We usually discussed the incident over sandwiches and tea".<sup>15</sup>

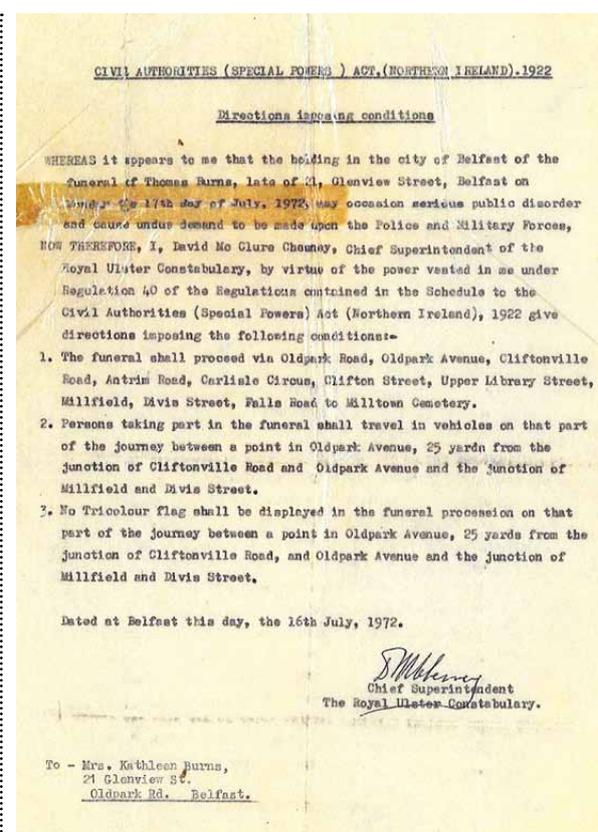
This negated any possibility of independence and did not meet legal requirements under Article 2 ECHR, as the High Court declared in 2003. This policy was found to have been unlawful.<sup>16</sup>

The perception of the Burns family in the aftermath of the tragic incident was that the RUC did not carry out any investigation. The family had no official contact from the RUC except for a letter in relation to the funeral arrangements. The RUC issued a notice directed to Kathleen, detailing directions in respect to Tommy's funeral, prohibiting the display of any tricolour flag and the use of vehicles at certain points of the route, as well as directing the appropriate route. This was most unusual given that Tommy had no association whatsoever with the republican movement or politically motivated violence. In any case, there was clearly no communication with the relatives to keep them informed of the investigation, probably intentionally, due to the lack of a real and effective one.

Maintaining contact with the family and involving them in the investigation is a clear duty under case law arising from Article 2 ECHR. The Burns family were left completely uninformed of what investigation was undertaken and what progress may have been made. No police officer ever knocked

15 Lundy, P, Assessment of the HET Review Processes and Procedures in Royal Military Police Investigation Cases, Ulster University, 2012 ([https://cain.ulster.ac.uk/lundy/2012-04-02\\_Lundy\\_HET-Briefing-Paper.pdf](https://cain.ulster.ac.uk/lundy/2012-04-02_Lundy_HET-Briefing-Paper.pdf)).

16 Kerr J. in the *Re Mary Louise Thompson's Application for Judicial Review* [2003] NIQB 80.

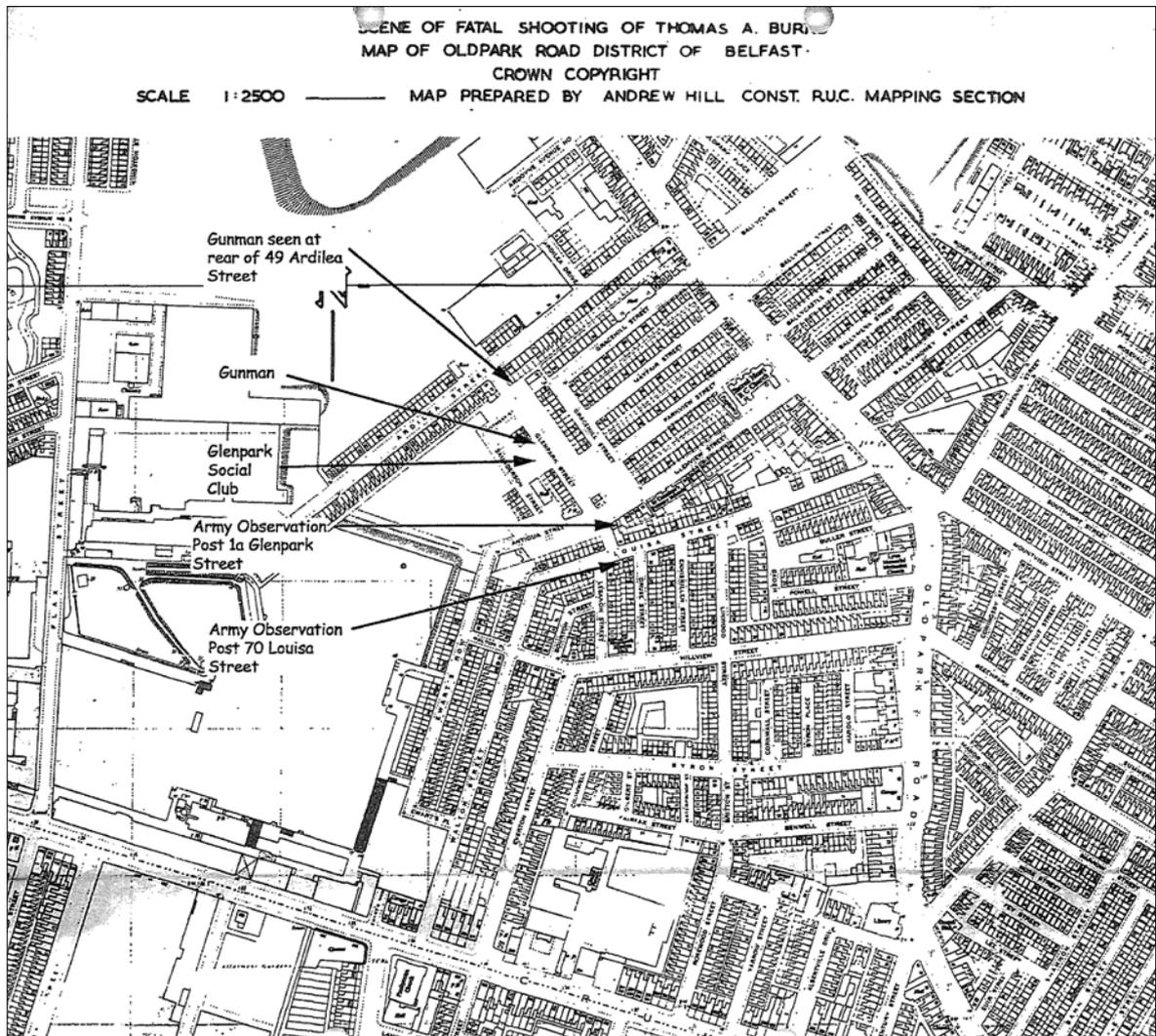


#### RUC notice re funeral

on their door, and all they heard up until the inquest almost a year later was what the media reported; that is, that their loved one was a gunman and he was shooting at the British soldiers the night he was killed. The deliberate peddling of lies and misinformation by the authorities in order to try and justify what was a totally unjustified and unjustifiable killing of an unarmed civilian is to be deplored. Despite being common practice, this has, as again in so many instances for families, added insult to injury and served only to intensify the long grief of the Burns family. Although his relatives knew that was not true, labelling Tommy in this way still haunts the family decades on.

The inquest into Tommy's death was held before the coroner Mr. JHS Elliott on Tuesday 3rd of April 1973 at the County Courthouse in Crumlin Road, Belfast. The coroner established the time, day, date and the cause of death and the jury returned a "misadventure" verdict. It is understood that 'misadventure indicates some deliberate (but lawful) human act which has unexpectedly taken a turn that leads to death.'<sup>17</sup> This would suggest

17 Jervis on Coroners, 13th Edition 2014, page 321.



RUC map prepared for inquest

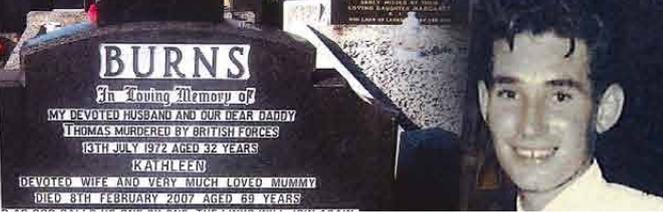
that Tommy's death was accidental, which for the family, their solicitors and RFJ is inappropriate and irreconcilable in this case, as is explained in this report.

There is no evidence among the inquest papers of any meaningful RUC investigation into the case. The normal practice for any other murder investigation would have been to seal off the area, to examine the crime scene, to search for spent cartridges, house to house enquiries... None of those measures were taken in Tommy's case. The RUC presented a short report made on a pro-forma layout for the coroner one day after Tommy was killed, and they attached a map of the scene prepared by the RUC Mapping Section. The RUC's only real involvement in the events appears to have been limited to a deposition from Detective

Constable Leslie Rowland, who confirms that he accompanied Tommy's father, Patrick, to the mortuary where he identified the body.

The person in charge of the investigation into the case was Corporal Michael John Nairn from the RMP/SIB. He made a statement on the day of the inquest, at the request of the Detective Sergeant leading the investigation, so that the British soldiers involved in the incident did not have to attend the inquest hearing.<sup>18</sup> According to him, he 'made enquiries amongst a number of

<sup>18</sup> This meant that a person suspected of causing the death may not be compelled to give evidence at the inquest and therefore not to be asked to testify, which contradicts the requirement of Article 2 ECHR for an effective and independent investigation. This rule was substituted in response to the judgement of the European Court of Human Rights in 2001; *Kelly and others v. the United Kingdom*.



soldiers and took detailed statements from two of them' whom he refers to as Soldiers A and B. However, the deposition has a handwriting amendment that says "+C", and the inquest papers contain statements from three soldiers (A, B and C), as well as a 'witness de-brief' recorded by a fourth, Soldier D. All of the statements from the three soldiers are dated 13th July 1972, and the statement from Soldier A was recorded after the statements from the other two soldiers.<sup>19</sup>



Emblem of killer's Royal Regiment of Wales

The practice of a coroner granting anonymity to witnesses was commonplace during the conflict, especially for serving British soldiers and police officers. Once the coroner had agreed to allow British soldiers to give evidence anonymously, their names were erased from their statements and replaced by a letter of the alphabet; hence the terms 'Soldier A, B and C' in this case. The coroner would then be passed a slip of paper with the name, rank, regiment and service number of the witness, and he would hand the note back to the military at the completion of the hearing. It was military policy to destroy the slip of paper after the coroner had returned it to them. The only details we know about Soldiers A, B and C is that they were serving with the 1st Battalion, Royal Regiment of Wales.

Their statements had been significantly amended afterwards. The statement attributed to Soldier B – the letter 'B' having been handwritten over the text – admitted discharging his weapon twice towards the 'gunman' from 70 Louisa Street, and the references to the accompanying British soldiers appeared to have been amended by hand to read 'C' rather than 'B'. Soldier C purported to be the soldier who witnessed the shooting; however, this

19 Soldier A: 1.30pm; Soldier B: 10.30am; and Soldier C: 11.00am.

evidence was attributed to Soldier B. Furthermore, the references to the first soldier read 'Soldier A' rather than 'Soldier B'. These discrepancies create a substantial amount of confusion, as well as considerable doubts about the investigative process.<sup>20</sup> It is also noteworthy that all the British soldiers refer to the Glenpark Social Club as the 'Republican Club', even though it had no connection with the republican movement and nobody in the area would have used such a term.

The original inquest papers only contain statements from three civilian witnesses: Malachy, Noel and Tommy's father, Patrick. It is reasonable to infer from the available documentation that, Father Dallat and Jim McLaughlin, who were the only ones permitted to remain with Tommy in the ambulance to the hospital, did not give evidence before the coroner. This is particularly striking in Jim's case, because he was with Tommy before, during and after the shooting, and his statement would have had a significant impact on the inquest.

The civilian witnesses contradicted the statements of the British soldiers (and the media for that matter) about Tommy being a gunman. Malachy's words were emphatic:'

*'At no time whatsoever during the night did Tommy Burns fire, or even have in his possession a gun of any kind.'*

It is also significant to remember the intense arc light was on when Tommy was shot, lighting Glenpark Street and therefore the social club. Apart from that, there is no reference in any document or statement in the inquest that implies the search for the finding of any gun on Tommy nor in or around the premises of the social club. Since the statements of the British soldiers were produced as court exhibits in the inquest and none of them were questioned, these aspects were not properly investigated. All in all, the inquest returned a "misadventure" verdict after the minimal and ineffective investigation, and it left the Burns family with more questions than answers.

Tommy's family did not give up in their long

20 For further details, see the section about the HET draft report.





statements of British soldiers who had killed people during the conflict. The HET was disbanded in 2013 without the Review Summary Report (RSR)<sup>21</sup> into Tommy's death being completed. However, it emerged the HET had in fact completed their investigations and worked up a draft concerning this case, which RFJ requested from the PSNI. Despite their initial reluctance to release the draft report, the Burns family finally received a copy in 2015.

The HET made a mistake in the report, stating the original inquest returned an open verdict rather than one of "misadventure".<sup>22</sup> Apart from that, and although limited and insufficient regarding the questions of Tommy's relatives, the report brought new information into the case. Following these investigations, the HET identified and liaised with new witnesses - some of whom were British soldiers on duty in Glenpark Street and Louisa Street at the time Tommy was killed. One of those soldiers witnessed the shooting, and he was especially cooperative. He was of the view that the statement, which purported to be his, was not. He also reported that his recollections of the events and his location at the time of the shooting were different from those contained in the statements. Also, the HET found Jim McLaughlin's statement given on the day Tommy was killed, as well as new information concerning the incident and its aftermath.

The HET tried to speak with the significant witnesses who provided evidence at the inquest, and three people were mentioned in its report: Malachy Fanning, Noel Donaghy and 'Witness A',<sup>23</sup> who visited the Glenpark Social Club shortly after

Tommy had been shot and was not interviewed by the original investigation. The accounts of the first two witnesses corroborated the evidence they provided at the inquest hearing, and all of them asserted there was no firearm in the social club the night Tommy was killed.

The RUC took firearms residue swabs from Tommy's and Jim's hands at the Royal Victoria Hospital that day, as well as blood samples. They also took possession of clothing from Tommy, for forensic testing for possible lead residue traces. According to the HET,

*"no lead was detected on the hand swabs and nothing of evidential value was found following an examination of Tommy's clothing. (...) No trace of firearms was found at the scene and there was no forensic evidence to connect Tommy or Jim to a firearm."*

Although the original inquest papers did not contain it, the HET confirmed Jim McLaughlin made a written statement to the RUC on the day Tommy was killed, which corroborated the statements made by Noel and Malachy. He was not required to attend the inquest proceedings and provide evidence in accordance with the statement he made to the police, as mentioned earlier in this report. The reason for this is unknown, but it is perplexing and difficult to understand why the only friend allowed to accompany Tommy to the hospital - that is, the witness with most information about Tommy and the incident - was not required to attend the inquest hearing. The fact that Patricia Kearns witnessed Jim being questioned by what she thought were Special Branch men, and then observed his injuries as a consequence of having been beaten up, was not mentioned in the HET report.

Noel Donaghy believed that he heard the sound of a shot hitting the wall of the social club. In his statement given to HCC Solicitors on April 2002, he added that he noticed a strike mark on the wall in the entry the following day. He expressed an opinion that he believed the bullet strike mark related to the same bullet which killed Tommy. The normal practice in an investigation, especially

21 An RSR was intended to provide families with the outcome of the HET's review of all available material in the police files relating to the original investigation, including any further investigative steps undertaken by the HET.

22 An open verdict was given when the circumstances of a death had not been considered in connection with charges brought in the criminal courts. The coroner, after hearing the evidence, would not apportion blame in the matter of the death. However, the original inquest regarding Tommy's case returned a verdict of misadventure (see previous section about original inquest).

23 Statements and depositions are regarded as being within the public domain if they are used in judicial proceedings, and details of the person making the statement or deposition can be made public. The person referred to as 'Witness A' never gave evidence at the inquest proceedings, and therefore he could not be identified in the report.



where someone has been shot dead, would be to seal off the area and examine the crime scene. Specialist police search teams would comb the area for physical evidence such as bullet heads and spent cartridge cases, among others. None of that, however, happened in Tommy's case, and this supports the view that there was at best a general ambivalence towards such killings by the authorities as part of a wider investigative bias.



The HET attributed this to the 'context of the times' in which the RUC were operating, implying that the RUC would have found it difficult to carry out proper police investigations in Ardoyne and the Bone given the political and civil unrest at the time. Nevertheless, the RUC were quite able to sustain an on the ground presence to conduct regular raids and make arrests. Therefore, one would expect that conducting an effective investigation into the fatal shooting of a local man would certainly have attracted less hostility and should have been tried – even with community and clerical support. After all, witnesses did come forward and make statements. Persistent reliance on the excuse of context is as worn out as the catalogue of unfounded claims that civilians who were shot by the British Army had in fact been armed and that British soldiers were returning fire, as happened in Tommy's case.

Notwithstanding the difficulties the RUC would have faced back in the early 70s, they made no real effort to properly and effectively investigate the killing of Tommy even though there were witnesses in the case. The fact that the RMP rather than the police interviewed the British soldiers was a major flaw in the investigation.

The HET accepted in its report that when conducting reviews of deaths in the early 1970s where the military had been involved, the Team faced significant difficulty establishing the identities of the British soldiers who were granted anonymity at inquest proceedings. Once the coroner had agreed to allow British soldiers to give evidence anonymously, their names were erased from their depositions and were replaced by a letter of the alphabet. They were then referred to as ciphered soldiers. At the completion of the hearing, it was military policy to destroy the slip of paper that had been handed to the coroner bearing the true identity of the British soldiers. In addition, the British Army only retains records for a period of 30 years, after which they are destroyed. Occasionally, though, the HET found some records that still existed.

Lance Corporal Nairn of the RMP/SIB, who was responsible for taking the soldiers' statements and the British Army investigation, was traced and spoken to by members of the HET. Unfortunately, he claimed that the number of investigations carried out at the time and the passage of time did not allow him to recall any specific details relating to Tommy's death.

The HET established the identity of some of the British soldiers positioned in the area of the Bone, and some of them were interviewed. However, the Team was unable to establish with a degree of certainty the identity of Soldiers A and B from the Royal Regiment of Wales directly involved in the shooting. The HET did interview the soldier who directly witnessed the incident, who should be Soldier C according to the inquest papers but was given the name 'Soldier X' because of his account contradicting Soldier C's statement.

Soldier X was identified as a British soldier serving with the Royal Welsh Regiment, on duty in 1a Glenpark Street, at the time Tommy was killed. He was traced and interviewed by the HET in March 2013. He confirmed that he was with five to six soldiers from the same regiment, including Soldiers AA, Y and Z.

He described his section being divided between three locations:

Why inquest delays keep y from 'learning truth'



Bradley meets victims' relatives to say sorry as they insist she must step down



1. 70 Louisa Street, which was given the call sign '17'.
2. The sangar which was given the call sign '17 Hotel'.
3. 'The house' in 1a Glenpark Street, to which the sangar was attached.

According to him, 70 Louisa Street was an empty house which was used as a command point for his section. Inside the house, he believed there were two British soldiers (Z and the section commander), whose name he could not recall. The front of the house looked directly down Glenpark Street towards Ardilea Street and the Glenpark Social Club. Louisa Street was separated from Glenpark Street by the corrugated metal barrier stretching across the road. A sangar was positioned on the opposite corner of the junction and was attached to number 1a Glenpark Street. The house was empty and access to the sangar had to be through the house.

Soldier X clearly recalled the circumstances in which Tommy was killed. His recollections significantly differ from the evidence recorded by the RMP/SIB and later produced at the inquest hearing. He stated that he was positioned together with Soldier AA,<sup>24</sup> in the sangar attached to 1a Glenpark Street. He said Soldier AA fired the shot which killed Tommy. He confirmed that no shots were fired from 70 Louisa Street and doubted whether a shot could possibly have been fired from there, due to the position of the corrugated sheeting between Louisa Street and Glenpark Street.

He also described Soldier AA firing one aimed shot at a gunman positioned on the North corner of the Glenpark Social Club who, according to him, appeared from the entrance to the social club and after shooting disappeared towards the entrance to the club. Soldier X stated that Soldier AA fired through the corner of the building, knowing that it was made of wood; 'a 7.62mm round would travel through the building and hit a gunman hiding

<sup>24</sup> The soldier named by Soldier X was traced and visited by the HET, but he refused to engage. That is why the soldier named by Soldier X as shooting Tommy is referred to as Soldier AA instead of Soldier B, who was the British soldier who killed Tommy according to the inquest papers.

behind the corner'. He also accepted that it was possible that his colleague hit a person other than the gunman, if there was ever one.

The British soldier could not explain why the statements of soldiers provided at the time indicated that shots were fired from 70 Louisa Street. He did, however, offer an explanation which questioned the thoroughness and accuracy of the RMP/SIB investigations, commenting that they rarely visited scenes or the barracks to record statements, as most of the enquiries were carried out over the phone.

Soldier X was shown the soldiers' statements produced at Tommy's inquest, and he did not believe any of the statements were made by himself. But this was not the only conflict regarding the British soldiers. Another soldier identified and interviewed by the HET, Soldier Z, who was positioned in 70 Louisa Street, categorically stated that he did not fire on the night in question and did not believe anybody else did from within his position. The recollections of Soldier Z, despite conflicting with the evidence presented at the time, corroborated the account provided by Soldier X to the HET.

This new information raises significant questions regarding the efficacy of the investigations carried out by the RMP/SIB, the fruits of which appear to have been submitted for consideration to the original inquest. It is evident that the veracity and validity of the statement attributed to Soldier C at the time of the original inquest is now in considerable doubt as a consequence of the reported findings of the HET. The logical implication is that one of the two statements furnished on the inquest was falsely attributed to Soldier X. It follows that the credibility of the statement of either soldier is fatally undermined. After the review into the case, the HET concluded that:

*"Tommy's death was a tragedy which should not have happened. (...) He was not a gunman and he did not pose any threat to the security forces positioned in the immediate area of the Glenpark Social Club."*



The HET also stated that the investigations carried out by the British Army and the RUC were ineffective, and that there are still some questions which remain unanswered.

### Where next for the Burns Family?

Tommy's daughter, Patricia, once said on behalf of her family "I intend to go to whatever lengths I have to".<sup>25</sup> And she has; they have. Despite the numerous setbacks the Burns family have experienced, they remain committed to achieving truth and justice in relation to Tommy's death. Not only have they been trying to live their lives coping with the devastation and trauma caused by their father's murder, but they are still dealing with an ongoing struggle, to try and get a proper inquest and a full investigation into the circumstances of their daddy's murder.



The Burns family, represented by HCC Solicitors, applied to the Attorney General (AG) under section 14 of the Coroner's Act to have a fresh inquest into Tommy's death. The application was made in October 2015 but was refused by the AG in 2016. This was a disappointing decision for both the Burns family and RFJ, who have supported Tommy's relatives in their campaign for a proper investigation into his killing. The AG's decision meant that the family's right to a proper and effective investigation into Tommy's murder remained unfulfilled, and so his relatives' rights continue to be violated. This cruel and inhuman situation remains the same.

The Director of Public Prosecutions (DPP) and the Legacy Investigation Branch (LIB) of the PSNI are not involved in a re-examination of the case at the time of writing of this report.<sup>26</sup> However, it is envisaged that all draft HET investigation reports

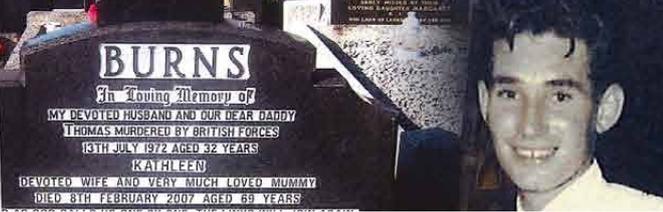
<sup>25</sup> Letter to Angela Smith, 16/09/2003.

<sup>26</sup> In any event, the LIB can no longer be viewed as the most appropriate body for investigating this case, not only because of the lack of promptness they have exhibited, but also as a result of their inability to meet the requirements of Article 2 ECHR, as outlined recently in numerous court cases.

involving the military in the North of Ireland are ear-marked for re-investigation if or when the Historical Investigations Unit (HIU) is established under the terms of the Stormont House Agreement (SHA), and Tommy's file remains on the LIB books. It therefore requires an investigation in the future.

While waiting for implementation of the SHA and its HIU and based on the information that emerged from the HET report, HCC Solicitors wrote to the AG again, asking him to revisit his original decision and to start a fresh inquest into Tommy's killing. The family, its solicitors and RFJ feel that the grounds for a new inquest are strong, and point to the following as support for this:

- It is evident that the veracity and validity of the statement attributed to 'Soldier X' at the time of the original inquest is now in considerable doubt as a consequence of the reported findings of the HET. In addition, a number of concerning irregularities arose from perusal of the inquest file; handwritten post-tender amendments, or the confusing times of the statements, for instance. This new information raises significant questions regarding the efficacy of the investigations carried out by the RMP/SIB.
- It is also evident that there was no relevant investigation carried out by the RUC.
- It is reasonable to infer that evidence from crucial civilian witnesses was not before the coroner (ie. Jim McLaughlin, Father Dallat, Patricia Kearns, etcetera). The evidence from those witnesses would have had a significant impact on the conduct and outcome of the inquest.
- Witness statements support the family's contention that Tommy was not in possession of a weapon and posed no risk to the soldiers. In addition, Noel Donaghy confirmed that there was no suggestion that Tommy or anyone else who was with him at the time he was shot was in possession of a firearm.
- No lead residue – normally associated with a person handling a firearm, was detected on the hand swabs and nothing of evidential value was found following an examination of Tommy's



- clothing. There was no weapon and ballistic examination in this case.
- There is a number of issues regarding this case that have not been contested, such as the incident with the UDA and the soldiers' reaction, or the reason why Tommy was brought to the RVH instead of the Mater Hospital. Civilian and military witnesses can speak to the circumstances surrounding Tommy's treatment and conveyance to hospital after the shooting. He died hours after the incident, and the cause of his death was listed as blood loss. Such testimonies could be considered relevant to the original inquest verdict of "misadventure", and to the findings of any future inquest.
  - The misadventure verdict was inappropriate and irreconcilable, particularly given that the evidence tendered at the original inquest of Soldiers B and C was that Soldier B purposefully fired 2 rounds at a gunman, who Soldier B considered he hit. There was no evidence that Tommy possessed a rifle of any kind. The bullet that killed him went straight through his body, but it was never located. It is impossible to ascertain the reasoning of the jury in arriving at this specific verdict, particularly given that it goes no further, as "findings" were not available to the jury at the time of the inquest in 1973.
  - Consequently, it is submitted that the investigations into Tommy's death were wholly inadequate and the information furnished to the coroner was likewise inevitably inadequate. This eroded the effectiveness and dictated the outcome of the original inquest, which clearly is in breach of Article 2 ECHR.

In response to the last application for a new inquest the AG made his decision while this report was being written. He agreed that the verdict of misadventure in the original inquest was legally incorrect and inconsistent with the criminal injury compensation awarded to Kathleen years after the incident. However, he rejected the request for a new inquest. According to him, it is 'not advisable'.<sup>27</sup> This was a deeply disappointing decision for the

<sup>27</sup> AG for NI, Decision regarding application for fresh inquest into the death of Thomas Burns, Ref. number 18/08/19/012, dated 07/06/2019.

Burns family and for RFJ, but Tommy's relatives have decided to 'fight on' and challenge the AG's decision on the grounds mentioned earlier. The legitimate right for a proper independent investigation into Tommy's death remains unfulfilled. Thus, HCC Solicitors have applied for judicial review on behalf of the family as this publication is being completed.

### Final Observations

For Tommy's relatives, the truth is paramount. The family has stated that if the incident was a mistake, or/and the British soldiers, the British Government or someone had apologised when it happened, they would have forgiven them.



*The European Court of Human Rights, Strasbourg*

It is not retributive but rather restorative justice that they are seeking; it is truth, acknowledgement and justice. Without it, they will not be able to heal their profound wounds, opened since 1972.

Tommy's daughter and sons ask themselves why this soldier killed their father. One of the hypotheses the family point at is that the soldier who shot Tommy may have launched the attack as an act of revenge, because three members of his regiment were shot dead by the IRA within a one-mile radius in the run-up to the fatal shooting.<sup>28</sup>

In any case, the answer to the question seems clear for the relatives, after years of fighting and campaigning for truth: they believe the soldier killed their loved one because he just could, and because no-one would ask why or be held responsible, as a consequence of the policy agreed between the British Army, the RUC and the British Government in 1972. That is why the Burns family blames both the British Army and the British Government for murdering Tommy.

<sup>28</sup> The Irish News, 'Family seek answers about murdered naval officer', 05/01/2016.



Patricia wrote a letter to the then Northern Ireland Under-Secretary and Victims' Minister Angela Smith in September 2003, and in response to Minister Smith's question 'Do you feel that what you have been through has been acknowledged by the Government?' she answered:

*"The thing we need is the truth to be told, which I know you can't or won't tell. We will achieve it, as we have got through everything else, by ourselves.*

*You could find out who this soldier was and pass on this letter. Tell him that not only did he take one life, but his actions have damaged so many more. Tell him that I can't get through a single day without thinking of my beautiful Daddy."*

The Burns family, supported by RFJ, continue to seek truth and justice to address the legacy of hurt, pain and grief still experienced by them to this day. They believe that delivering on truth and justice could more generally contribute to wider societal resolution of the impact of the conflict. Accountability relates to the activities of the British soldier who killed their loved one. However, it also relates to British policy to indemnify soldiers who kill.

The British State is a signatory to the European Convention on Human Rights (ECHR); it has been since 1953. This places certain legal obligations on the British Government, whereby they must uphold and protect citizens' human rights; not least Article 2 - the right to life. Article 2 protects individuals from being arbitrarily deprived of their life by the state and imposes a duty on the state to investigate where they bear responsibility for a death. The European Court on Human Rights (ECtHR) has set out specific criteria that an investigation has to meet to comply with Article 2:

- The investigation must be initiated by the state.
- It must be independent.
- It must be effective, in that it is able to identify those responsible for the death with a view to prosecuting.

- It must be sufficiently open to public scrutiny.
- It must involve the next-of-kin so that their legitimate interest is safeguarded.
- It must be carried out promptly and with reasonable expedition.

This report has already shown that Tommy's case has been - and still is - far from those criteria.

As the Burns family stated in an interview given to RFJ,

*"We, as a family, have fought for years for a full and unbiased investigation into our daddy's murder. That's what we want now. It's the least we deserve, and we shouldn't be fighting for it."*

The commitment to prevention or ending of impunity is the single greatest signal to victims and survivors that society and the state are committed to upholding their rights and willing to address their suffering. For decades family members of people killed and those who have suffered gross violations have lived with the impunity of the actors who caused them harm and systemic cover-up of those crimes. The British Government has signed and ratified human rights conventions and treaties and it has legal obligations. It is therefore incumbent that it adheres to the rule of law, and it gets openly and honestly involved in the development and implementation of comprehensive transitional justice mechanisms in the North of Ireland.

All the above mentioned has a huge impact on Tommy's relatives, not only regarding their rights for truth and justice, but also on their suffering and health. It is said that 'justice delayed is justice denied', but also, the legacy of the interminable failure to deliver rights to those who suffered harm serves only to compound and exacerbate their trauma. Kathleen passed away without resolution of her bereavement, but her children and grandchildren continue walking this painful road. It is therefore incumbent that the British Government complies with its legal obligations, in order that the Burns family finally get the truth and justice to which they are entitled.

(November 2019)

Why inquest delays keep  
y from 'learning truth'

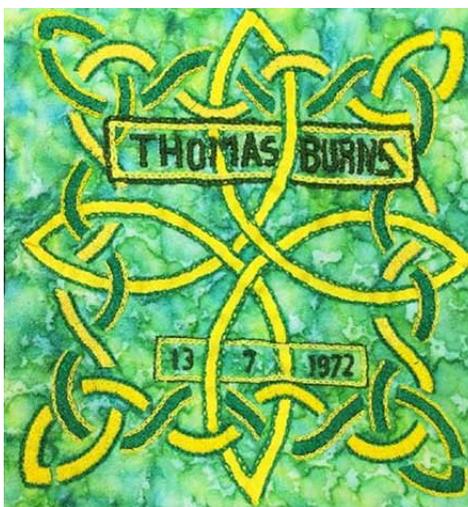


Bradley meets victims' relatives to say  
sorry as they insist she must step down

**BY SUZANNE WEBB**  
The daughter of a former judge  
at the inquest into the death of the  
Acrobat and the daughter of  
the man who was shot dead by  
British soldiers in the Maze  
prison, were speaking  
after meeting Eamon Bradley  
today at the inquest to hear  
the evidence against the British  
soldiers who shot him dead in  
1972.



**BURNS**  
In Loving Memory of  
MY DEVOTED HUSBAND AND OUR DEAR DADDY  
THOMAS MURDERED BY BRITISH FORCES  
13TH JULY 1972 AGED 32 YEARS  
KATHLEEN  
DEVOTED WIFE AND VERY MUCH LOVED MUMMY  
DIED 8TH FEBRUARY 2007 AGED 66 YEARS



RFJ Remembering quilt and individual panel dedicated to Thomas Burns, designed by his children



This Certificate is to be issued only at the Central Registration Office, Belfast  
REGISTRATION OF BIRTHS AND DEATHS IN NORTHERN IRELAND

Certifi

**CERTIFIED COPY OF AN ENTRY OF DEATH**

Pursuant to 15 & 16 Eliz. 2, Ch. 25

DEATHS registered in the District of St Anne's, Wals in the Superintendent Registrar's District of Belfast in the County of The City of Belfast

No. (1)	Date and place of death (2)	Name and surname (3)	Sex (4)	Condition (5)	Age last birthday (6)	Rank, Profession or occupation (7)	Certified cause of death (8)	Signature, qualification and residence of informant (9)	When registered (10)	Signature of Registrar (11)
20	19.7.73 Thirteenth July Royal Victoria Hospital Belfast	Thomas Aguias Burns late of 21 Blomvis Street Belfast	Male	Married	32 years	Process Sutor	Heart haemorrhage due to laceration of left lung due to gunshot wound of heart	Certificate received from James H. Elliott, Coroner for City of Belfast. Inquest held on the 3rd April 1973.	Full April 1973	R. Subb Registrar

I hereby Certify that the above is a true Copy of an Entry in a Register of Deaths in my custody.

YEAR OF DEATH (in words)  
Nineteen Hundred and Seventy Three

Office: 16 College Street, Belfast BT1  
Date: 9.4.73

CAUTION—Any person who (1) falsifies any of the particulars on this Certificate, or (2) uses a falsified Certificate as true, knowing it to be false, is liable to prosecution under the Forgery Act,

**ROYAL NAVY.**

**EDUCATIONAL TEST I.**

THIS IS TO CERTIFY THAT

Thomas A. Burns,  
Able Seaman,  
D/J. 952693

has passed the Educational Test I, which is a written examination in

(I) ENGLISH, including :—  
Dictation, essay writing, and simple paraphrasing ;  
and

(II) either ARITHMETIC, including :—  
The first four rules, vulgar and decimal fractions, averages, percentages, simple problems on money, weights and measures, and making out Mess Bills  
or TECHNICAL SUBJECTS, including :—  
Mensuration and scale drawing of simple figures. Speed and direction, with special reference to simple Naval problems. Elementary chart-work and graphical work. Elementary mechanics and electricity.  
Simple exercises on the above, involving the first four rules of Arithmetic, vulgar and decimal fractions, averages and simple proportion. Simple problems on Naval pay and allowances.

The subject taken in section (II) was Arithmetic

*J. Kenning*  
Director of The Naval Education Service.

ADMIRALTY, S.W.I.  
24th March, 1960

(707) Wt. 60504/P1002 10w (2) 12/50 S.E.R. Ltd. Gp. 647



Above: Kathleen Burns  
Left: Martin and daughter, Katie



Thomas' children Martin, Patricia and John

Why inquest delays keep y from 'learning truth'



Bradley meets victims' relatives to say sorry as they insist she must step down



# Bradley meets victims' relatives to say sorry as they insist she must step down

BY SUZANNE BREEN

THE daughter of a former Royal Naval officer shot dead by the Army has said the Secretary of State is unfit for office and must resign.

Patricia Burns was speaking after meeting Karen Bradley yesterday at Stormont to hear her personally apologise for saying security force killings weren't crimes. The families of 11 civilians shot dead by paratroopers in Ballymurphy in 1971 refused to meet her.

But Ms Burns, whose father Thomas was shot dead in Ardoyne in 1972, said she felt it important to go.

"I lost my daddy when I was six years old. My entire adult life has been consumed with trying to get him justice," she said.

"I wanted to look Karen Bradley in the eye and tell her what happened to daddy, an innocent man, and the hurt that her words had caused my family. We are not just statistics."

On Wednesday Mrs Bradley told the House of Commons that security force killings were "not crimes" but were carried out by "people acting under orders and under instruction and fulfilling their duty in a dignified and appropriate way".

She later clarified her remarks and apologised. Mr Burns (32) was shot dead by a soldier in a watchtower at Flax Street Army



Representatives from campaign group Relatives for Justice speaking outside Stormont House in Belfast following their meeting with Karen Bradley



base as he walked home from the pub.

His daughter said: "I told Karen Bradley about the effect it had on our family. My mother was left on her own with four children under 11 and no money. She had to bring us up while holding down two jobs."

"The only response from the state was when the RUC contacted us to ask for the funeral route and say there should be no paramilitary funeral — there was never going to be because daddy wasn't involved in anything."

Ms Burns said Mrs Bradley apologised repeatedly.

She added: "She seemed embarrassed and taken back by the statistics showing that the vast majority of security force killings were of civilians and included 82 children. She just doesn't seem to know enough about Northern Ireland. She shouldn't be in the job. She should resign."

The other victims to meet Mrs Bradley included Frances Meehan, whose brother Michael Donnelly was killed by a plastic bullet in west Belfast in 1980.

She also called on the Secretary of State to step down.

The family of 11-year-old Stephen McConomy, killed by a plastic bullet in Londonderry in 1982, showed Mrs Bradley a photograph of him in his school uniform a fortnight before he was killed, another on a life support machine, and one in his coffin.

Relatives for Justice, which accompanied the families, said the Secretary of State was left speechless by the pictures.

Speaking afterwards, Mrs Burns said it had been hum-

bling to meet the families "and listen to each of them and their personal and deeply moving stories".

She added: "I heard about the hurt and suffering endured over many years... this cannot have been felt more deeply than by those who lost children."

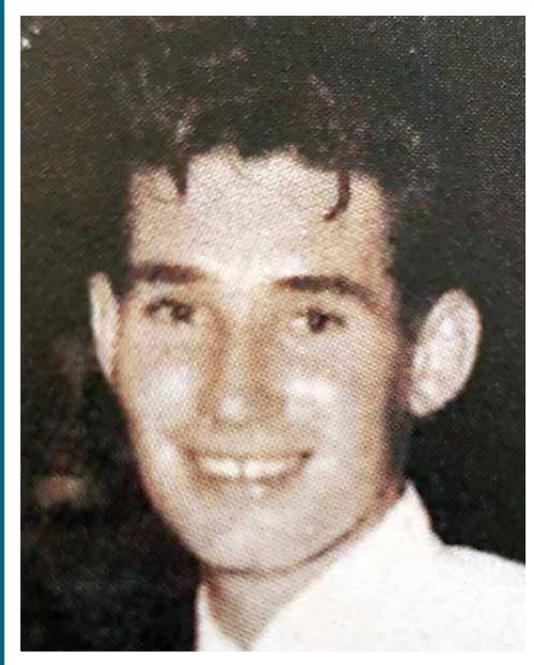
She thanked the families for giving her the chance to apologise personally and said where there was evidence of wrongdoing, justice would be pursued "without fear or favour whoever the perpetrators might be".



Memorial at Ardilea Close



Thomas' sons John and Stephen with their niece, Aileen



## THOMAS BURNS

“I need to re-write history for myself, my family and my children, and most importantly, for my Daddy.”

(Patricia Burns)



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