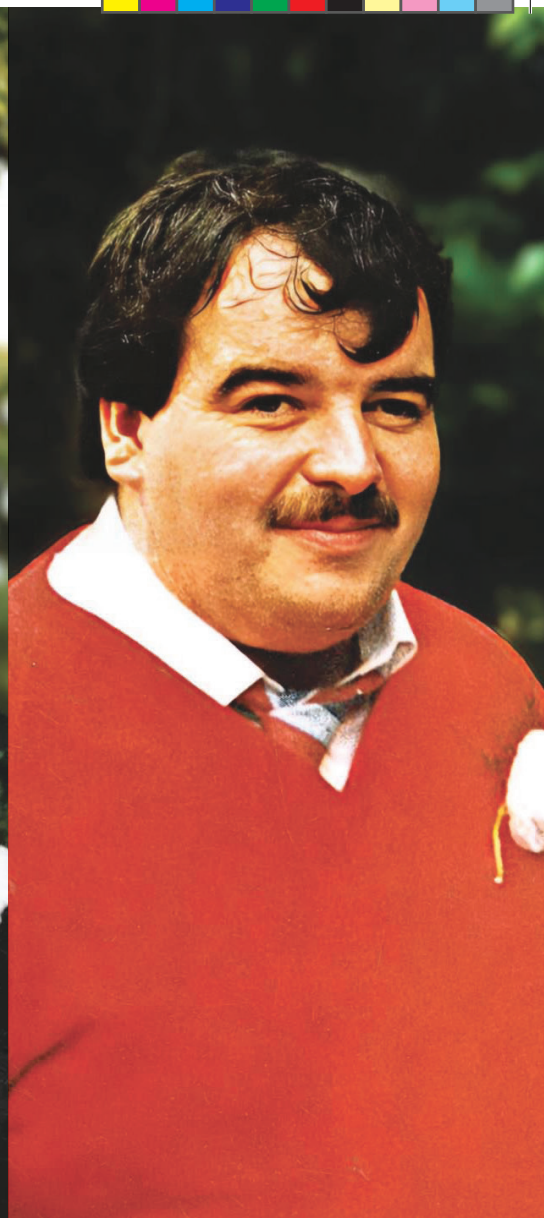




GERARD HARTE, MARTIN HARTE AND BRIAN MULLIN

KILLED BY SAS, DRUMNAKILLY, CO TYRONE 30TH AUGUST 1988

REPORT COMPILED FOR THE HARTE AND MULLIN FAMILIES BY RELATIVES FOR JUSTICE



The untold stories of Relatives, Victims and Survivors





THE KILLING OF GERARD HARTE, MARTIN HARTE AND BRIAN MULLIN

KILLED ON 30 AUGUST 1988

Incident/Introduction



Gerard Harte



Martin Harte



Brian Mullin

Shortly before 4.00pm on 30th August 1988, IRA volunteers Gerard and Martin Harte, along with Brian Mullin, were killed on active service in an ambush involving the SAS. The three volunteers, members of the West Tyrone brigade, had taken over a house in Cloughfinn (a townland in County Tyrone) with the intention of carrying out a military operation against a member of the Ulster Defense Regiment (UDR), a regiment of the British Army. As well as being a member of the British Army, the IRA had also identified the intended target as the driver of a lorry used to ferry coal and fuel into various British Army and RUC bases in the area.

However, prior intelligence of the IRA plan enabled the British authorities to plan and deploy a covert operation involving the SAS putting in place an ambush and assassination operation.

The lorry that contained the IRA's intended target had been parked up for some considerable time on the Omagh to Carrickmore Road beside a deserted two-story house known as "Sarah's shop". The parked lorry, ostensibly with a flat tyre, was part of the plan to lure the IRA.

Just before 4.00pm a series of shots were heard. It transpired that a total of 236 shots were fired, and the three men were killed with no other casualties

reported. An eyewitness working in a field nearby noted that almost immediately after the firing, two helicopters appeared and departed in quick succession. The eyewitness saw at least seven military/police extracted from the scene by the second helicopter.

This witness also saw two other people at the scene before he went to alert a priest and drove along the road to the location of the shootings. He was told by RUC personnel at a cordon that three men were dead. There were also other witnesses who saw or heard the shooting who gave evidence at inquest.

Purpose of RFJ family reports

This report has been compiled by Relatives for Justice (RFJ) on behalf of the Harte and Mullin families as a full account of available information of what happened to their loved ones. It provides a narrative for families and an analysis of the wider context in which these killings occurred. It highlights outstanding questions that require answers, ultimately from the British state. The report challenges the self-serving and partial "official" British narrative of their troops acting as neutral peacekeepers between opposing communities. In the absence of a legally compliant and independent investigation or examination of the evidence, this publication addresses the state's official lies and propaganda by giving expression to families' sentiments and views concerning what happened to their loved ones in their continuing pursuit of truth and justice.

The conflict interrupted the lives of individuals, their families and loved ones, resulting in medical and psychological trauma. It disrupted



family relationships and by and large stopped or reduced opportunity with respect to education, employment and earnings. Not only did it affect the immediate relatives of those killed, the ripple effect of trauma and harm has travelled down through the generations of families, communities and wider society and is with us to the present day.

Therefore, RFJ also seeks to highlight the impact the conflict has had generally and in relation to specific cases through its provision of support services from legal and advocacy casework to therapeutic mental health and well-being services.

The report is also about remembering Gerard, Martin and Brian and their short lives.

Gerard Harte and Martin Harte



Martin and Gerard Harte

Martin Harte, aged 21, was the youngest child to John and Winnie Harte. All children attended St Theresa's PS Loughmacrory and Dean Maguire College Carrickmore. Martin was a skilled woodworker and left school to take up an apprenticeship as a joiner. He successfully gained work with a local building firm. A measure of his ability and skills were evident when he was able to put a roof on his house in Striff at the age of 17. Impacted by the H Block campaign and the Hunger Strike in 1981 Martin became an active republican. Politically, Martin also worked for Sinn Féin during the Mid-Ulster election campaign of 1983. As a volunteer he was very close to his older brother Gerard. Married to Briege Mullin who was a sister of Brian Mullin their son Declan was born May 4th, 1988. Briege lost not only a brother but also a husband.

The GAA formed a large part of the Harte family life. Gerard and Martin were members of St Teresa's GAA club in Loughmacrory. Both were established playing

members and Gerard was also part of the coaching staff. He was the trainer for the Under-12 team at the time of his death. Because of the pivotal role the Harte brothers played within their local club and community it is unsurprising that memorial events based around football tournaments were deemed a fitting form of remembrance by the members, players, and committee of the club.

Gerard was born on 7th April 1959. His many achievements with the club included winning a Tyrone junior championship medal when playing for the local Loughmacrory side in 1980.

Gerard came on as a sub for Paddy O'Brien and their side beat Brockagh 1-10 to 2-05 to win the Tyrone championship. It was the first time that Loughmacrory won the Tyrone Championship.

Martin was also an accomplished Gaelic footballer playing at centre back. Martin was Loughmacrory player of the year in 1987 and also played handball. Martin captained Loughmacrory as a centre back at the time of his death. One of Martin's finest moments was when he played a central (the actual word used was "storming") role in Loughmacrory's win over Owenkillew winning the Under 16 Grade Two championship. His peers often cite his ability on the pitch and that he could have represented the county. Martin was deemed to be a likely senior Tyrone player before his untimely death.

Gerard, Martin and Brian's memory has been maintained through the GAA tournaments and tribute matches. Because of Gerard's coaching activities the Harte Cup for Under-12 boys and girls was established and as a tournament continues to this day.

Gerard trained as an architect and was responsible for designing plans for many properties in Tyrone. He set up a studio at his home and specialized in designing new build homes and extensions.

Gerard married Róisín Mitchell in 1986 and their son Colm was born in October 1987. Róisín describes her late husband as an outstanding father who gave the very best of his attention to Colm every day.

He also played handball occasionally and was particularly fond of the annual talent competitions held in the local community centre. Gerard was noted as a good singer and performed in the odd short play.



Harte family at Martin's wedding



Gerard Harte's wedding



Gerard and Roisin with son Colm

Brian Mullin

Brian was born December 21st, 1962, and was aged 25 when he was killed. The sixth child of Michael and Cissie Mullin, he grew up in the townland of Foremass, Country Tyrone. Brian's paternal grandfather was a renowned poet and was known as "Bard Mullin". One of ten children, Brian went to St Bridget's Primary School. St Ciaran's High School, Ballygawley, and then Omagh Training Centre becoming a bricklayer finding work with local building firms.

Brian came from a strong republican family and was impacted by the conflict from an early age. As a child and a young adult, he witnessed many raids on the family home. His father discovered two covert British Army observation posts on his farm and his older brother Pat served time as a



republican prisoner on the Blanket Protest in the H-Blocks. Pat was refused parole to attend his father's funeral in 1984.

As part of the campaign around conditions in the H Blocks, Brian was part of a local Relatives Action Committee and was a frequent visitor to prisons seeing his brother and other imprisoned comrades. Tyrone's Struggle refers to his involvement in the IRA and notes, "he was arrested and detained in Gough Barracks on numerous occasions and endured repeated assaults at the hands of the RUC. Only weeks before his death, Brian and his brothers were beaten in an incident outside the family home at Foremass".¹

Commemorating and Remembering

Thirty years later, in August 2018, Sean Harte, the brother of Gerard and Martin, made his way from Canada (where he was President of the Canadian GAA) to Loughmacrory to be present at the anniversary of killings. The anniversary was marked by a parade and commemoration of "The Drumnakilly Martyrs". In a press interview² Sean made the point, "It is 30 years ago, and it is still very raw yet... It is important to be there and that the lads are remembered". He went on to say, "The local people in Loughmacrory have been incredible... The army and police presence that morning is also something I will never forget. It was unbelievable, like a war zone around the house, while all we

1 *Tyrone's Struggle for Irish freedom*, Magee G, printed Brunswick Press 2011

2 *Ulster Herald*, August 30th 2018



were trying to do as a family was mourn our loved ones." Sean also recalled getting two phone calls an hour and a half apart in Canada to tell him Gerard and Martin had been killed. In somewhat of an understatement Sean notes, "It was tough". He further recalled experiencing harassment and abuse at Heathrow on his way to the funeral. Sean referenced the support the family received throughout the years and how much this has comforted him.



A section of the crowd at Gerard and Martin Harte's graveside commemoration

Tyrone - Churchill, Thatcher and the SAS

In the 1922 Anglo-Irish Treaty debates and discussion on partition (Boundary Commission), on exactly where the British imposed border in Ireland would finally settle, British prime minister, Winston Churchill, referred to the "dreary steeples of Fermanagh and Tyrone".

Churchill was expressing his frustration at the interconnectedness of villages, hamlets, and parishes that run the length and breadth of our country and an inability to push forward with consolidating partition; his advisors having to go to-and-fro.

Some two years earlier, March 25, 1920, Churchill had deployed to Ireland the murderous thugs, the Black and Tans, in a last-ditch effort to defeat the IRA during the War of Independence. Countless murders of civilians, Sinn Fein activists, and IRA volunteers were carried out by the Black and Tans

working alongside the then Royal Irish Constabulary (RIC). Practically all those killed were unarmed with many brutally tortured before being murdered.

One of Churchill's commanding officers, Lt Colonel Gerald Smyth, who took charge of the RIC, told those under his command:

"Should the order 'hands up' not be obeyed, shoot and shoot with effect. If the persons approaching a patrol carry their hands in their pockets or are in any way suspicious looking shoot them down. You may make mistakes occasionally and innocent persons may be shot, but that cannot be helped, and you are bound to get the right parties sometime. The more you shoot the better I will like you, and rest assure no policeman will get into trouble for shooting any man..."

There was also widespread violence against women, including sexual violence by British forces. In one notorious case in Tipperary, British soldiers raped then murdered Kate Maher.

Churchill's objective was also to "wipe out" Sinn Féin who had in the 1918 election received over 70 per cent of the vote across Ireland. His plan was of course doomed as his ruthless tactics steeled the Irish people and their resolve for resistance and independence.

Across the six northern counties, which were dominated by unionists, Catholics were subjected to pogroms with hundreds of sectarian murders involving unionist mobs, which also included members of the RIC. These attacks were supported and encouraged by a cabal of unionist military and political elites who were close to Churchill. The same maxim of impunity applied.

Despite the decades since the treaty, the civil war, and partition, hostilities against nationalists and republicans remained within the six counties. Indeed, the northern statelet incubated sectarian hostilities. The violence and hostilities of unionist forces, the 'B Specials' and their successors, the sectarian Ulster Defence Regiment/Royal Irish Regiment (UDR/RIR), in ways mirrored those of the Black and Tans, with the Royal Ulster Constabulary (RUC), which replaced the RIC, at best looking the other way. This notwithstanding, RUC- led gangs were also active in sectarian murders, especially in Belfast during the 1920's. Fear dominated the



RUC presence at the Brian Mullin funeral

nationalist communities of the six counties. Joint membership of these unionist forces and loyalist paramilitary mobs was common practice and not least during the conflict from 1969 until 1997 with collusion becoming predominant. At the epicentre of these counterinsurgency and collusion policies were RUC Special Branch.

Two generations after partition Tyrone and Fermanagh, like most of the six counties, witnessed a generation impacted by what they saw and experienced. A generation whose morale, unlike that of their parents and grandparents, was undented by the lived experience of partition and sense of abandonment by the free state government. Motivated to end the nationalist nightmare, and politically framed as the unfinished business in the struggle for self-determination and an end to partition, that generation mobilized.

The “dreary steeples” would once again become a feature, a frustration, for another British prime minister and not least across Tyrone where scores of young men and women filled the ranks of the

IRA, and who were effectively prosecuting a military offensive against British forces.

Counterinsurgency and collusion tactics in a modern era were the response from Margaret Thatcher, with “her boys” in the SAS forming a significant part of her ruthless tactics.

Thatcher’s objectives were very much the same as Churchill’s in seeking to defeat republicans in a low intensity conflict that paralleled policies of “normalization”. This required couching things in more subtle terms of the times for public optics in the battle for hearts and minds and the propaganda war. But the outcomes were the same with summary executions, extra-judicial killings, and political assassinations.

The deployment of the SAS particularly in Tyrone, stands out compared to other counties with pre-planned, premeditated, shoot-to-kill ambushes of republicans whilst loyalist paramilitaries in collusion with British forces targeted and murdered Sinn Fein members, republican activists and their uninvolved relatives.



The SAS: Thatcher's modern-day equivalent to Churchill's Black and Tans

Brothers Gerard and Martin Harte, and Brian Mullin, typified that generation who resisted and joined the ranks of the IRA. Born into partition and the nationalist nightmare they made conscious decisions; decisions that also came with the risks and realities of imprisonment and even death. They were the products of the environment partition bequeathed them.

In the context of the war in the north, the British/ unionist veneer of 'normalisation', so-called adherence to 'democratic' values, alongside the vilification of republicans, a central tenet was the corruption of the rule of law to their advantage. This enabled a practice of shoot-to-kill and summary execution carried out not least by the SAS. Using the SAS in certain conditions, the British would, with significant prior intelligence, mobilise, entrap, and then execute IRA volunteers in carefully planned ambushes with no opportunity for surrender. Many of those killed were unarmed. In almost all these instances ample opportunity for safe and effective arrests under the law was dispensed with. Political and military decisions favoured killings rather than taking preventative action. And where such circumstances were not available then loyalists were used to kill. Perfunctory investigations and sham processes formed part of this veneer; the truth evident when scratched. Impunity was part and parcel, akin to Lt Col. Smyth's guarantee that "no one would get into trouble for shooting anyone".

In all the SAS directly killed 26 people in 9 ambush operations in Tyrone, including eight members of the east Tyrone brigade of the IRA at Loughgall in county Armagh.³ Overall, the SAS murdered 43 people in the north with their first reported (acknowledged) killing in April 1976 being that of unarmed south Armagh republican Peter Cleary, who was detained, questioned, and then executed in Forkhill, County Armagh. A few months earlier, January 1975, SAS

3 The SAS also shot two civilians (brothers travelling to work) in that attack one of whom, Anthony Hughes, died. His brother, though seriously injured, thankfully survived the attack.

captain Robert Nairac led a loyalist gang south of the border into Castleblaney, County Monaghan, where they killed republican John Francis Green.⁴



Tyrone-based Irish Republicans killed by the SAS

- 1978 Paul Duffy
- 1983 Brian Campbell
Colm McGirr
- 1984 Willie Price
- 1985 Michael Devine
Danny Devine
Charles Breslin
- 1987 Patrick Kelly
James Lynagh

4 According to former British Army intelligence officer Fred Holroyd, Robert Nairac was involved in the murder of John Francis Green. The loyalists that Nairac led into County Monaghan were the Glenanne Gang, Glenanne being the farm in south Armagh from which they operated. Nairac was also reportedly involved in other murders including the attack on the Miami Shawband. The Pat Finucane Centre has extensively documented the activities of the Glenanne Gang :https://www.patfinucanecentre.org



- Anthony Gormley
- Padraig McKearney
- Declan Arthurs
- Seamus Donnelly
- Eugene Kelly
- Gerard O'Callaghan
- 1988 Gerard Harte
- Martin Harte
- Brian Mullin
- 1990 Dessie Grew
- Martin McCaughey
- 1991 Tony Doris
- Michael Ryan
- Lawrence McNally
- 1992 Kevin Barry O'Donnell
- Sean O'Farrell
- Peter Clancy
- Patrick Vincent

We also know of instances where the SAS and other covert units were present during loyalist attacks and assassinations yet did not intervene. These were during the attacks on civil rights activists Michael and Bernadette McAliskey, a former independent nationalist MP for Mid Ulster, at their Tyrone home, in December 1980; the murder of Sinn Féin activist Sam Marshall as he left an RUC station in Lurgan in March 1990; and the murder of Tyrone pensioner Roseanne Mallon and wounding of her sister-in-law Bridget Mallon, in May 1994 also at their home. These were examples of the SAS supervising their collusive handywork.

It is also believed that a covert operation was in place at the home of Kathleen O'Hagan, Greencastle, County Tyrone, when she was murdered by loyalists in August 1994. Her husband Paddy returned home to find his young children huddled around their mother's dead body.

Like people across Ireland who experienced Churchill's ruthless policies, the Hartes and Brian Mullin experienced similar ruthless tactics of the unionist and British forces and paramilitaries directed under Thatcher and her government. It was Thatcher who asked former UDR major and unionist MP Ken Maginnis for the names of IRA volunteers he claimed were involved in attacks. Within weeks of providing names the SAS killed

Gerard and Martin Harte and Brian Mullin. Maginnis later admitted these were the very names he provided to Thatcher.



Tyrone has long been a place of insurgency and challenge against the English - then British - colonisation of Ireland. It provided republican leaders like Tom Clarke from Dungannon, and it was where the civil rights movement was formed.

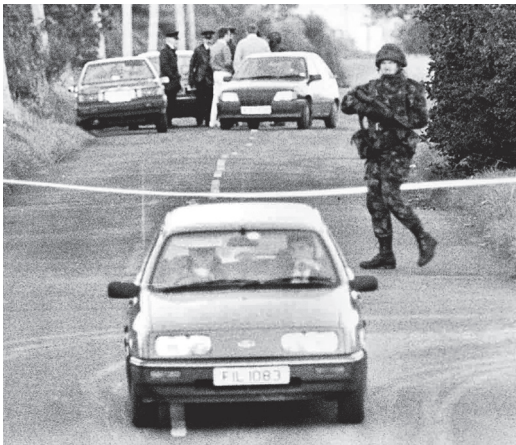
Like previous generations Gerard, Martin, Brian, and numerous others were steeled with resolve for change, equality, rights, and ultimately independence, a cause they were prepared to sacrifice their lives for.

Steeped in the traditions of Irish culture, faith, politics and resistance, republicans Gerard and Martin Harte, and Brian Mullin, like many before and indeed after them, were proud of and drew inspiration from the steeples of their native Tyrone, despite Churchill's frustrations, and Thatcher's failed policies of state and state-sponsored violence. In contrast, the last two represent a legacy of shame.

Context/Background

The killings of Gerard, Martin, and Brian occurred in the context of a period, prior to Drumnakilly, of intense killings by both state and non-state actors. Twenty-three people had died: sixteen were killed by the IRA, four by the UVF, one by the British Army, one by the INLA and one by a civilian.

The largest number of those killed in a single incident were eight soldiers from the Light Infantry Regiment who were killed by a bomb placed on a bus on its way to Omagh known



Scene of the killings

THE IRISH NEWS
SATURDAY DECEMBER 9 2001

Ombudsman acted unlawfully in probe of IRA killings by SAS

The Police Ombudsman has unlawfully failed to investigate the killing of three IRA men within a reasonable time, a High Court judge declared yesterday.

Mr Justice Hambley confirmed the outcome in a challenge mounted by the widow of one of the volunteers shot dead by the SAS 35 years ago.

Brothers Gerard and Martin Harte were gunned down at Drumahilly Co Tyrone in August 1968.

They were ambushed 19 days after the IRA bombed a bus carrying British troops at Ballygawley, an attack which claimed the lives of eight soldiers.

Relatives of the three republicans believed they were victims of a suspected shoot-to-kill policy operated by the British army in the immediate aftermath.

State agents allegedly handed them into a presumed trap, according to their case.

It has also been claimed that RUC officers were involved in covering off the area prior to the shooting and did not carry out an effective probe in the immediate aftermath.

Gerard Harte's widow

Rinne lodged a complaint with the ombudsman following a television documentary about the case broadcast in 2011.

In 2018 the watchdog confirmed that an investigation into her grievance would be carried out.

But amid budgeting issues the inquiry was never completed.

Mrs Harte issued judicial review proceedings against the ombudsman over that delay and against the Department of Justice for an alleged failure to provide the necessary funding.

With the British government's controversial Legacy Act set to shut down work on Troubles-era probes, her case is not expected to be dealt with by the end of date of May next year.

The court yesterday said Mrs Harte issued judicial review proceedings against the ombudsman over that delay and against the Department of Justice for an alleged failure to provide the necessary funding.

Mr Justice Hambley stated: "The court will make a declaration that the respondent [the Police Ombudsman] has acted unlawfully by failing to investigate the applicant's complaint within a reasonable time."

He also ordered the body to pay Mrs Harte's legal costs. Proceedings against the Department of Justice were formally dismissed.

Outside court, Mrs Harte's solicitor stressed she had expected her complaint would be fully examined and be the subject of a published report.

Gavin Booth of Phoenix Law said: "It is clear now that the Ombudsman has acted unlawfully, but unfortunately there will be no report due to the Legacy Act."

Citing the separate High Court challenge to that legislation, he added: "Mrs Harte, like many other families, are in a state of uncertainty and hope that judgment will allow them to obtain investigations into their cases."

“It is clear now that the ombudsman has acted unlawfully but unfortunately there will be no report due to the Legacy Act”

as the Ballygawley bus bomb. This occurred on 20th August 1988. Nineteen other soldiers were injured. Ulster Unionist MP, Ken Maginnis, who had been a UDR major until 1981, claims to have come across the scene shortly after the explosion. He described how he had found one of the dying soldiers in a cowshed. After this incident, the British government reacted by introducing a ban relating to Sinn Féin media appearances as well as reducing remission for prisoners.

Tom King, Secretary of State for the North of Ireland, at the time had an emergency meeting with British Prime Minister Margaret Thatcher on 24th August which lasted for two hours.⁵ Afterwards Tom King announced that certain decisions had been made in relation to what he terms "security matters" which would shortly become known. He stated, "I am not at liberty to go into any details. We face a serious, vicious terrorist challenge. The responsibility of government is to respond to that challenge in the most effective way. It is our responsibility not to tell the terrorist what we are doing."⁶

Another relevant background element has been the view articulated by Mark Urban⁷ that the British Army found a way, they thought, around "yellow card" rules that that supports the contention that there was indeed a shoot-to kill policy carried out

by the British state and its agents. Urban examines other contested killings involving the SAS that occurred in the Tyrone area such as Strabane (1985),⁸ Loughgall (1987)⁹ and Coagh (1991)¹⁰ and concludes that, "there has been no official suggestion that the SAS ever challenged terrorists-inviting them to give themselves up before opening fire."

Furthermore, "The significant point is that the Army no longer feels it necessary to issue a challenge as often as it used to, or it no longer feels it has to pretend that its soldiers have done so. It is easy to conclude that the reduction of scrutiny has changed the organisation's attitude to the use of lethal force by special forces units."¹¹

A witness appeal mounted by RFJ and members of the Harte family produced a statement from an individual who recalled an incident on August 20th, 1988, that bears some similarity to the chain of events during the shooting. In RFJ's view this incident should be investigated as it would appear to be a "dry run" for the operation that was to result

5 Irish Information Agenda: a database of facts and information on the Northern Ireland conflict and Anglo-Irish affairs. pg. 213. pub 1990.

6 *Ibid*

7 Mark Urban. "Big Boys' Rules". Faber and Faber 1992.

8 Three IRA men killed by the SAS near Strabane in February. In 2002 the Ministry of Defence paid out substantial damages to the families on the basis the men presented no danger and were shot without warning. *Lost Lives*. Page 1010.

9 Eight IRA men and one civilian were killed by the SAS in an attack on Loughgall RUC Station. *Lost Lives*. Pages 1077-1080.

10 Three IRA men were ambushed and killed by the SAS whilst on active service driving through the village of Coagh in June 1991. *Lost Lives* Pages 1238-1239.

11 Mark Urban. "Big Boys' Rules". Page 246. Faber and Faber 1992.



Funeral of Gerard and Martin Harte



Roisin Harte carrying Gerard's coffin

in the deaths of Gerard, Martin and Brian ten days later. An SAS source confirms the operation that resulted in the deaths of the three men was active "for nearly three weeks" before being suspended for an unspecified period then reactivated.¹²

Reportage

The killings were extensively reported in the *Irish News* with political and community reactions.¹³ It is worth tracking the *Irish News* reporting over the five-day period as it gives an idea as to how the story was controlled and developed by the NIO and state agencies, including the challenge to this narrative that emerged from sources, some not necessarily well disposed to Irish republicans. The deaths were also listed in the obituary columns of the *Irish News* with acknowledgements and tributes being paid by family, friends, and comrades.

From the outset it was clear that the three men were ambushed, and the area was cordoned off. A local doctor was refused permission to get to the scene. Father John Cargan, a local Catholic curate, was permitted to administer the last rites and several witnesses saw a lot of RUC and British Army activity almost immediately after the killings.¹⁴ The night of the killings Taoiseach Charles Haughey and SDLP deputy leader Seamus Mallon called for

a full inquiry into the events.¹⁵ Such was the immediate concern that Haughey and his cabinet sought an early convening of the Anglo-Irish Intergovernmental Conference to discuss the situation stating, "The frightening escalation in the level of violence undermines the very maintenance of the rule of law and can only bring further divisions and tragedy for the people of the North".



Fr John Cargan - One of the first to arrive at the scene

The RUC put out a statement saying, "A number of spent rounds at the scene appear to be consistent with the recovered terrorist weapons. Tests are being carried out". This has been contested by the families ever since, and during the inquest it was suggested that any rounds fired from the weapons carried by the men were fired **after** they (the three men) had been immobilised that is, critically injured or indeed killed.

In the same edition of the *Irish News*, NIO minister Dr Brian Mawhinney was repeatedly asked "if there was a shoot-to-kill policy being operated by the security forces in Northern Ireland", but he repeatedly denied any suggestion of this and added that "the only shoot-to-kill policy was being

12 *SAS, The Soldiers Story*, Jack Ramsay, pgs 186-192. MacMillan Publishers 1996

13 *Irish News*. Wednesday August 31- Monday September 5.

14 *Irish News* August 31, 1988

15 *Ibid*



RUC presence at one of the funerals

operated by the I.R.A.”

It was also in this edition that Ken Maginnis, a Westminster MP, stated that operations such as that carried out in Drumnakilly, were “necessary for the purpose of saving innocent lives”.

The following day (Friday), the *Irish News* reported that predictions for the funeral attendance were of the order of 10,000 and that a large RUC presence was anticipated. Sinn Féin said that there would be no republican displays at the funeral. Fr Denis Faul, in what was to become a central complaint of the families, suggested that the RUC and British Army could have arrested the three men and had “plenty of time” to do this.¹⁶

Further questioning of the state version of events continued in the Saturday edition as part of the reporting of the funerals of Gerard and Martin. The RUC also issued a statement that one of the three weapons, recovered from the scene of the shooting, a Kalashnikov rifle, had been fired but “a police spokesman said he knew of no forensic or ballistics

test which could determine who fired first.”¹⁷

By Monday Fr Denis Faul was clearly suggesting that, “Perhaps the security forces let the guns off later somewhere else in order to get the shells”. The clear inference is that the Kalashnikov was discharged by someone other than the IRA unit and that the casings were then distributed at the scene to make it look as if the one of the three men had fired at their target. Fr Faul is quoted as saying that “all the evidence so far available, indicated that the intention of the government forces was to carry out an assassination ambush and a revenge killing.”¹⁸ The same article carries a vehement denial from British Secretary Tom King that the only shoot-to-kill policy, “...was that carried out by the IRA. They were carrying it out quite clearly on this occasion. Shoot anybody, shoot first, shoot often - that is their shoot-to-kill policy”. Tom Dalyell, a Labour MP, posed the question, carried in the same publication, “If it is true that agents provocateurs are being used by the state does this not raise serious issues? Does such a policy, if it exists, have the imprimatur of the Cabinet?”

¹⁶ *Irish News*. Friday, September 2, 1988

¹⁷ *Irish News*. Saturday, September 3, 1988

¹⁸ *Irish News*. Monday, September 5, 1988



Huge security presence at IRA funerals in Tyrone

UNPRECEDENTED security arrangements were put into operation for last week's funerals in County Tyrone of three suspected IRA men shot dead by the SAS on Tuesday, August 26th, in what is now believed to have been a carefully prepared ambush at Drumakilly, near Omagh.

The three who died — 7, 21 and 22 — according to a statement from the Mid-Ulster Brigade of the IRA — were brothers Gerard (29) and Martin (31) Harter, Loughmurry, and Martin Harter's brother-in-law, Brian Mullin (38), Fermanagh.

All three were in a lorry when it was ambushed on the road between the village of Drumakilly and the town of Omagh. The lorry was carrying a large quantity of coal and was being driven by Gerard Harter. The three men were shot dead by SAS soldiers who were on patrol in the area.

The funerals were held in the local churches in Omagh. The funeral for Gerard Harter was held on Wednesday, August 27th, and was attended by a large number of people. The funeral for Martin Harter was held on Thursday, August 28th, and was also attended by a large number of people. The funeral for Brian Mullin was held on Friday, August 29th, and was also attended by a large number of people.

Bundoran rally speakers' anger

Speakers at last Saturday's Bundoran rally, which commemorated the deaths of the three men, expressed their anger at the British government's actions in Northern Ireland.

The rally was held in Bundoran, County Donegal, and was attended by a large number of people. The speakers at the rally included Gerry Adams, Martin McGuinness, and other members of the IRA. They all expressed their anger at the British government's actions in Northern Ireland, and called for an end to the conflict.

Adams said that the British government's actions in Northern Ireland were "a gross violation of human rights". He said that the British government was "killing innocent people" and that it was "oppressing the people of Northern Ireland". McGuinness said that the British government's actions in Northern Ireland were "a gross violation of human rights". He said that the British government was "killing innocent people" and that it was "oppressing the people of Northern Ireland".



Police in riot gear kept pace with the funeral on Saturday last of Brian Mullin along the narrow roads to the local Church.

Fermanagh Herald, page 11 (10-09-1988)

Sinn Féin issued a statement declaring, "Mrs. Thatcher's government clearly ordered this bloodshed in a vain attempt to intimidate Irish people from opposing British rule". Sammy Wilson, in his capacity as DUP press officer at the time, stated that, "A policy of shooting terrorists on sight is much more desirable to internment, legal reform or the other timid suggestions which have recently been made as a response to the IRA campaign. Dead IRA men will not be a burden on the state finances; they cannot escape from prison and they certainly will never recommit acts of terror".

The reaction of the British media

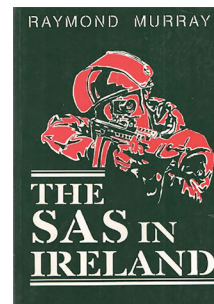
Father Raymond Murray, who has documented the activities of the SAS, noted the reaction of the British press at the time of the killings.¹⁹ It was

generally characterized as a revenge attack on the IRA accompanied by what only can be described as screaming headlines particularly from the "red tops". Headlines such as "Armed terrorists shot in gun battle as bus-bomb avengers swoop from dugout" (*Daily Express*), "IRA men shot dead by Army avengers" (*The Sun*), "SAS rub out IRA rats" (*The Star*), "Revenge! SAS kill three bus bombers" (*Daily Mirror*), and from *Today*, "Revenge of the SAS. IRA bombers of 8 boy soldiers shot in cottage ambush". The *Evening Standard* leader noted "The first reaction of most people to the shooting will have nothing to do with politics or the law. It will be a simple satisfaction that the IRA have had to pay". It is apparent that the British press were briefed that the killings of the three men were a reaction to the Ballygawley bus-bombing without any evidence of this being produced. Father Murray notes the *Daily Express* in a profile of Ken Maginnis as saying, "In the wake of the Ballygawley coach carnage, where eight soldiers were slaughtered, he told Mrs. Thatcher the IRA's top assassins must be caged. And he named names."

The Father Murray account of events

The most detailed account of the shootings apart from that of the inquest is that given by Father Murray. The sequence of events may be summarised as follows.

Father Murray suggests the killings were planned before the Ballygawley bus-bombing and "that atrocity hastened the massacre at Cloughfin, Drumakilly."²⁰ An easily identifiable (to the IRA) lorry was parked on the Drumakilly Road at 10am on 30th August. The lorry delivered coal and other types of fuel to military installations in the area. The parked lorry, ostensibly with a flat tyre, was part of a carefully planned ambush spear-headed by the SAS. A team of SAS were positioned in the ditch alongside the lorry and at least one SAS man



19 Raymond Murray. "The SAS in Ireland", pub Mercier Press 1990. Page 440.

20 Ibid page 440.



Harte brothers' funeral

was manning a machine gun in an old shed. It has been suggested to RFJ that a concealed dugout or observation post (OP) was established on rising land overlooking the site of the killings. This OP was discovered approximately a year after the killings.

At approximately 2.00pm an IRA unit comprising Gerard, Martin and Brian took over a nearby house with a view to mounting an attack on the lorry as it was expected to drive past the house. Those in the house, as well as others who subsequently arrived, were detained and the phone was disconnected. At 3.40pm there was a change of plan. The team commandeered a car belonging to one of the detained and smashed the rear window. One of those remaining in the house saw one member of the IRA unit in the front of the car as a driver and the other two in the back seat as it was driving off from the farmhouse.

A key witness to the events was a local farmer who was working in a field about 300 yards from the scene of the shooting. He was very clear and specific about the sequence of gunfire he heard, namely:

"1st Burst. A long burst like a panic burst. Rapid firing. Shooting unusual. Seemed to be a vibration or echo coming off the gun and that seemed to make it louder. Like a diesel tractor inside a tin shed. Puzzled me. In a place with tin. Very strange. Loud

Obituary articles from *An Phoblacht - Republican News*, September 8th, 1988, featuring portraits and text for Oglach Brian Ó Maoláin, Oglach Gearóid Ó Hairt, and Oglach Máirtín Ó Hairt.

An Phoblacht - Republican News, Obituaries

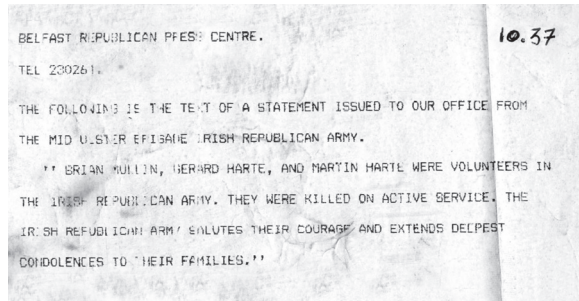
burst. I thought, 'Is that not going to stop?'
"2nd Burst. More controlled. Not as fast. Then a single shot-pop, like a squib going off."
"3rd Burst. Controlled. Think you could count the shots. Then pop."
"4th Burst. This was the last burst – slower rapid fire. Again, think you could count the shots."
"Silence"
"Then final single shot, same pop sound. The delay meant that it sounded out of place – it could have been ten to twenty seconds after the last burst."²¹
This evidence is crucial, but its interpretation was contested at the inquest.

The same witness saw two Chinook helicopters arrive at the scene, one of which he saw landing briefly and picking up three RUC personnel and possibly four others dressed in, "jeans and boiler-suits-type clothes".²² When this witness attempted to offer medical assistance (he had some medical training and assumed there were injured people) he

21 Ibid page 443
22 Ibid page 444



was told by a policeman, "Don't you worry, They are dead anyway".²³



Statement issued by Republican Press Centre

Collusion and Shoot-to-kill in high places

Shortly after the shootings Ken Maginnis, Westminster MP at the time, gave an interview relating some of his role in the proceedings which he amplified some years later.²⁴ The interviewer posed the question, "But were the dead men among those mentioned by MP Ken Maginnis to the Prime Minister ten days ago?" Ken Maginnis responded by saying, "I think it's quite possible from memory. But as I say I didn't have a list. It's quite possible that some of those people could have been among the names because they were very well-known members of the IRA unit in that area."

The day after the killings Ken Maginnis was reported in the *Guardian* and *Daily Telegraph* as having passed on a list of IRA suspects to Margaret Thatcher and that one of the names on the list was that of Brian Mullin.²⁵

In an *Irish Times* interview published on 1st September 1988 Ken Maginnis is quoted as saying he "named the name of a man who had been questioned on a number of occasions in relation to murders, and I said in relation to the soldiers who had been murdered that morning that he wouldn't have been far away". Later in the interview Maginnis states that, "one of the people killed was probably one of those I mentioned".

23 *Ibid* page 444

24 Interview given to ITN Shortly after the killings. <https://www.youtube.com/watch?v=yEeHrSXrMQY>

25 Irish Information Agenda: a database of facts and information on the Northern Ireland conflict and Anglo-Irish affairs. pg. 215. pub 1990.

The MP was to be less circumspect later. It is worth noting his views on issues such as collusion, role of the UDR and shoot-to-kill as these have been consistent and in RFJ's view informed the interview he gave to **Raidió Teilifís Éireann** in 2015 which is detailed later in this report.

Ken Maginnis also had a view on the Pat Finucane murder when he accused the lawyer of having more than a client relationship with those he was representing. When challenged by Liz O'Donnell,²⁶ his response was, "Liz O'Donnell in my experience is a sincere individual who must not sully her reputation by jumping to conclusions that are naïve". He repeated his claim that he, Pat Finucane, was "inextricably linked" to the IRA.²⁷

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The interviewer posed the question, "But were the dead men among those mentioned by MP Ken Maginnis to the Prime Minister ten days ago?" Ken Maginnis responded by saying, "I think it's quite possible from memory."

In 2007, in a reaction to a Police Ombudsman's report²⁸ which highlighted collusion between the UVF and the RUC Special Branch, Ken Maginnis is quoted as saying, "Collusion had to do with saving lives, it had to do with keeping Northern Ireland from falling over the brink into full scale civil war. How on earth can I give a degree of credibility to such nonsense based on hindsight, based on prejudice and based on an alternative agenda".²⁹

Ken Maginnis responded to an article in the *Irish News* concerning documents discovered alleging large scale collusion between the RUC, British

26 Liz O'Donnell was Minister of State of the Irish Department of Foreign Affairs with responsibility for Overseas Development Assistance and Human Rights.

27 *Irish Times*. "Maginnis stands by his remarks on Finucane". 01.05.99.

28 Police Ombudsman for Northern Ireland, Operation Ballast: investigation into the circumstances surrounding the murder of Raymond McCord Jr. This covered the period from 1991-2003. Published 22.01.2007.

29 *The Guardian*. "Reaction to the RUC report", Monday 22 January 2007.



RUC checkpoint at time of funerals



RUC intimidation at the graveyard

Army, and loyalists from as early as 1973.³⁰ Military estimates reckoned that five to fifteen percent of UDR members were linked to loyalists and that a significant number of UDR weapons ended up with loyalist organisations. Merlyn Rees in 1975, then Secretary of State, briefed Margaret Thatcher (when she was elected leader of the Conservative party replacing Edward Heath) that there was a connection between the RUC and UVF and noted that the UDR was "heavily infiltrated by extremist Protestants".³¹

Maginnis asserted in relation to British intelligence during the early part of the conflict, "The guys who came over here and were responsible for intelligence, and I worked with some of them, in the early 1970's, if they had been good, the IRA would never have gotten off the ground," he said. "These are guys who fished in the dark, so I would place remarkably little dependability on their assessment because they simply did not know what they were talking about. As far as the UDR were concerned, by and large, the UDR were decent people who paid a very high price for their desire to maintain law and order."

"It's not as simple as 'was there collusion?'" One of the problems is that one man's collusion is another man's anti-terrorism activity. "And if you take a place like Northern Ireland in the early seventies and a great number of murders going on, it was very difficult to keep a tab on who was doing what, when a conversation was, or was not, conspiracy."

Furthermore, there was "no wholesale surrender of weapons to loyalists.... the real killing machine was the Provisional IRA."³²

And

"I myself helped bring seven IRA men into custody and saw them charged, brought before the courts and.... That was not a shoot-to-kill policy."

He concluded by opining, "By contrast, the IRA never indulged any of its targets with such privileges; they even operated a shoot-to-kill policy against their own people—for example, the Disappeared".

In July 2013 **Raidió Teilifís Éireann** (RTÉ) broadcast a documentary "Thatcher - Ireland and the Iron Lady" provided some insight into Margaret Thatcher's analysis of the situation which had "security" at its core, but which also had her, somewhat reluctantly, sign the Anglo-Irish Agreement of 1985. In a strange aside she was quoted as using the Sudetenland as her comparator to understand the situation in Ireland.³³

Early in the documentary³⁴ Ken Maginnis is characterised as having the ear of Margaret Thatcher on matters relating to the so-called "security" situation in the North. "Margaret Thatcher had great respect for Ken, or Kenneth Maginnis ... because of his UDR Connections." one commentator pronounced. The respect was reciprocated as later in the documentary³⁵ Ken Maginnis expressed remorse that unionists had let down ("more let down by us")

30 *Irish News*. "One man's collusion, another man's anti-terrorism activity".

31 *Ibid*

32 *Ibid*

33 "Thatcher-Ireland and the Iron Lady". RTE. 04/07/2013.

34 11 minutes 3 seconds

35 43 minutes 41 seconds



Margaret Thatcher around the UUP response to the signing of the Anglo-Irish agreement.

However, it is in relation to the killings at Drumnakilly that the most relevant comment was made. Ken Maginnis gave a direct account of a meeting he had with Margaret Thatcher shortly after the Ballygawley bus bombing. He recalled that she opened her remarks by saying "Thank you very much for coming to see me" and then, getting straight to the point said, "Now tell me, who did this?". The response was, "So I told her, but I couldn't tell her one hundred percent, but I was able to name names and she said right, thank you very much".

Ken Maginnis then went on to say, "Subsequently, believe it or not, an SAS operation, when the same team tried to kill a coal man and they were ambushed and that was the end of that particular team". Quite apart from his propensity to make strident pronouncements and unsubstantiated claims, it is thus clear that Ken Maginnis is on record and by his own admission offered up the names of people he thought were responsible for the Ballygawley bus bombing. At this stage he was not in the UDR but obviously was being fed information by state actors such as the British Army and/or the RUC.

More detail is provided in another RTE broadcast transmitted in June 2015.³⁶ A core allegation made in the documentary was that a shoot-to-kill policy existed and the Drumnakilly shootings were used as an example. A transcript of the exchanges is worth reproducing.

Transcript of Ken Maginnis interview

Interviewer: While politicians spoke of the need for a political solution, we now know that the Thatcher government had other ideas. According to the British Army's own account of its thirty-eight-year campaign in Northern Ireland code named Operation Banner, the British government's main military objective in the 1980s was the destruction of the IRA rather than resolving the conflict.

³⁶ "Collusion". RTE. 16/06/2015

K M: She steeled herself. She had a mission. She had to deal with it and deal with it she did. Now it doesn't matter whether it was the Falklands or whether it was the IRA.

Interviewer: Mrs. Thatcher maintained the IRA would be fought within the rule of law. In practice the response to the IRA sometimes employed the tactics of war. In the late 1980s the IRA launched a new offensive. (the aftermath of the Ballygawley bus-bombing scene is shown) This was all that was left of a bus carrying soldiers to a nearby base. Eight died and many were maimed for life.

Ken Maginnis who had been a major in the Ulster Defense Regiment visited the scene.



Margaret Thatcher



Ken Maginnis

K M: I lifted the phone at 2 o'clock in the morning and phoned Downing Street. Within about 40 minutes my phone rang and who was it? The Prime Minister herself y'know at ten to three in the morning saying to me, 'oh yes Kenneth, come over'.

Interviewer: She asked you who you thought may have been responsible, is that right? Was that that meeting or was this a separate meeting?

K M: That, that was at that meeting and I think it would have been more in conversation with her about the incident I would have been mentioned those who would have been involved.

Interviewer: The people whose names you gave to Margaret Thatcher, they would have ended up dead, is that right?

K M: Well (half laughs) yes, that is true.

Interviewer: Nine days after this conversation three



Funeral cortege

IRA men were ambushed and killed by the SAS in the same area as the bus attack.

K M: Of course, I felt, 'thank God that's the end of those three fellas. They'll not be killing any more of my soldiers.

Interviewer: And that's war?

K M: And that's war
Immediately following Ken Maginnis's contribution Michael Mates³⁷ offered his interpretation as to what was going on, particularly how the conflict had to be defined from a British perspective.

Interviewer to Michael Mates: You were operating secretly often closer to the rules of war?

Michael Mates: How can you call it war in your own country? It would have been a civil war and you can't have that! This was the dilemma. This was the unique aspect of the whole of the Troubles. That it was happening within the United Kingdom.

Reaction to this was uneven. A unionist leaning newspaper quoted Ken Maginnis who was very

clear in his analysis "It was the IRA who were the real practitioners of the shoot-to kill policy."³⁸ Jude Collins a writer and broadcaster was one of the few journalists at the time who picked up the import of what Ken Maginnis was saying.

"Margaret Thatcher phoned Maginnis and wanted to know if he knew who did this. The major gave her three names, and a few days later the three people were shot dead by the SAS. Mr. Maginnis's reaction was that this was good, because that was three IRA men who would be involved in no further subversive activity."

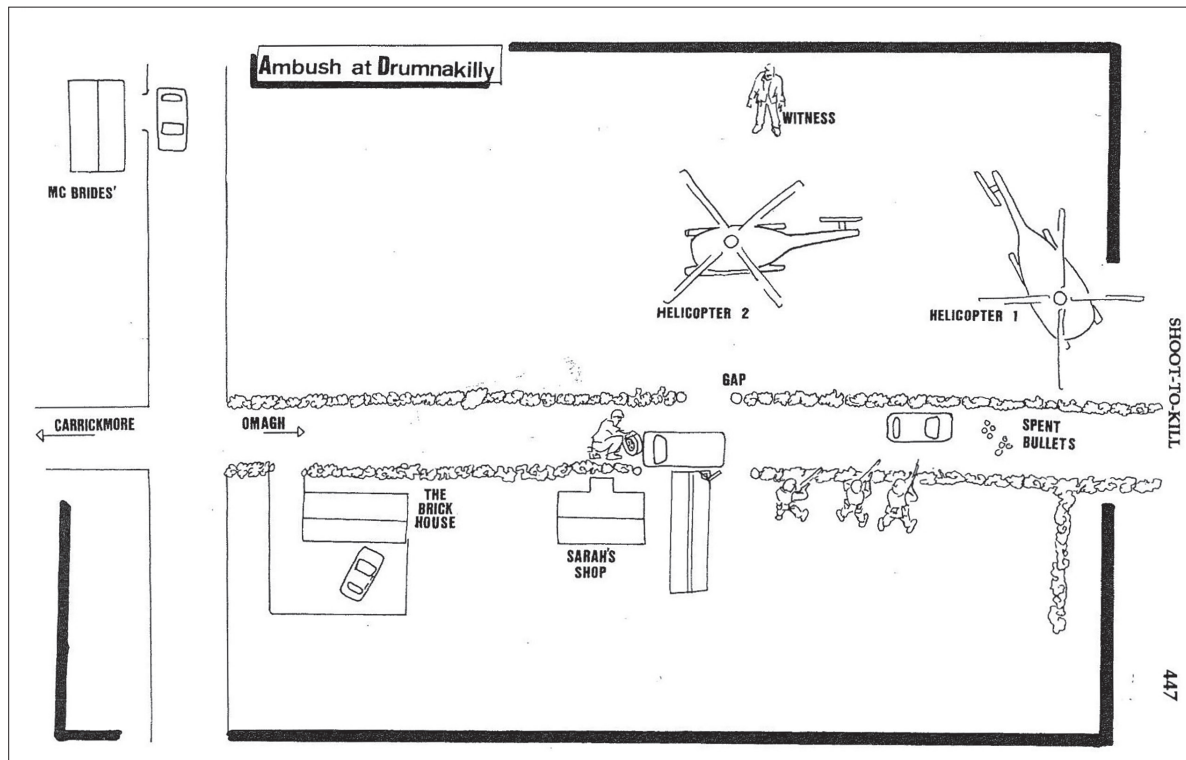
"Ken Maginnis, by his own...I was going to say by his own 'admission', but 'assertion' or even 'boast' last night was involved in the deaths of three people he says were in the IRA. He passed these names to Thatcher, who clearly passed them on to the British Army, who promptly killed the men in question."

"Lord Maginnis of Drumglass and Margaret Thatcher...set aside the law, picked out three men the Baron (Ken Maginnis) believed were responsible for the killing of a group of British soldiers, and the men were promptly executed."

"Most stories of what happened here during the Troubles I can assimilate without too much bother. This one I find breath-taking. A man declares

37 Michael Mates was a Security Minister of State at the Northern Ireland Office from 1992-1993. He served in the British Army and was Lieutenant Colonel when he left.

38 *Belfast Newsletter*. Interview given to Philip Bradfield 06/07/2015



Plan of ambush scene (The SAS in Ireland)

proudly that he gave three names to the British Prime Minister and the British Prime minister passes these on to the British Army and the three men are found and killed. Is there national/international outrage? It doesn't even make the headlines"³⁹

Consequence of RTÉ Collusion Programme

Because of the programme in general and Ken Magennis's comments it was clear to the families that there were grounds for legal action either as a civil case and/or a reopening of the inquest authorized by the Attorney General under Section 14 of the Coroners Act. It is clear from the family's point of view that the three men were killed because of a shoot to kill policy going right to the top of the British government but also involving the Ministry of Defense, the Northern Ireland Office and the chief constable of the PSNI.

The Hartes family's Lawyer asserted, "This is clearly a case where the state at the highest level has

ordered a shoot-to-kill policy against our clients, and we are taking a civil action". "Names were provided, no evidence was adduced, there was no trial process, there was no charging, and the men were executed by the state on the authority of the Prime Minister Margaret Thatcher"⁴⁰.

Nishey Harte, a brother of Gerard and Martin said, "It's evident from what Ken Maginnis had to say that the orders came from Thatcher herself that Gerard, Martin and Brian had to be taken out at any cost." Nishey later went on to say, "they had prior knowledge of the men being armed, they had access to the weapons, so therefore they could have been arrested at any time and charged. They lured them into an ambush and shot them dead without any warning."

Claims for damages are also being pursued. Nishey's Lawyer noted that, "As a result of the murder of our client's brothers and the recent revelation that agents of the state were directly involved in the planning and carrying out of the same, our client has sustained a severe psychiatric

39 Jude Collins 16/06/2015 <http://www.judecollins.com/2015/06/rtes-collusion-and-baron-ken/>

40 BBC News NI. Mervyn Jess. "Families of three IRA men take legal action against Lord Maginnis". <http://www.bbc.co.uk/news/uk-northern-ireland-33384714>



RUC cameraman recording mourners at funeral

injury". He went on to state that, "Medical evidence has been commissioned in this regard, in addition, the deceased's estates have incurred significant financial losses."

The Inquest

The inquest into the events at Drumnakilly took place at Enniskillen Court and were presided over by coroner John Leckey. The proceedings opened on Monday 5th March 1993 and concluded Friday 9th March 1993. From the outset the proceedings were subject to the use of a Public Interest Immunity Certificate (PIIC) (a gagging order prohibiting open evidence) signed by Patrick Mayhew, then British Secretary of State on 12th March 1993.⁴¹ Another feature of a PIIC is that it identifies, amongst other things, the state's facility **not** to disclose "the identity, location, organization, chain of command, methods of operation, and capabilities

of the special units of the RUC and armed forces personnel operating in liaison with them". It is perhaps because of this injunction that neither the title "Special Air Services" nor the acronym SAS was used by any of the parties during the inquest. This is despite the fact the SAS had featured in accounts of the incident practically from its occurrence. It was clear from the beginning that the families of those killed were not going to have a fair, open and transparent inquest.

Some more insights did emerge from the inquest which broadened the picture of what happened that day in Drumnakilly although, at its core, the family, supported by RFJ, contest the narrative put forward by the state.

There were fourteen British Army soldiers, identified as soldier's A to N who made witness statements at least two days after the killings. Ten of these did not give evidence at the inquest. The witness statements claimed that the soldiers were, "attached to Eight Infantry Brigade, Ebrington Barracks Londonderry".

The four (K, L, M and N) who did, gave evidence behind screens. There were two British Army mobile patrol units in the area and one RUC mobile unit that were very close to the scene of the operation

⁴¹ Public Interest Immunity Certificates are issued to prevent the disclosure of information by the state where it is felt (in this case) "the need to protect the integrity of intelligence operations, the need to protect the operational efficiency of the special units of the RUC and the special units of the RUC and the need to protect the future usefulness of the RUC and armed forces personnel, their safety and that of their families".



as it unfolded. It is likely that more personnel were involved both near the scene and in the planning of the operation. It is also clear that unspecified intelligence played a part in the killings.

The inquest initially took evidence from the police photographer who produced four albums of photographs taken at the scene. These photographs were referenced throughout the proceedings.

Civilian witnesses were then called. Two were very significant. The first was the farmer who had given the account recorded by Father Murray (referenced herein) and the second a woman travelling in a car who drove into the scene as events were playing out. The farmer restated that he had heard intermittent bursts of gunfire and then he had heard a pop sound after the last three bursts. This evidence was rebutted by all the soldiers who took the stand. He also was very clear that he had seen four, what he described as civilians, and three policemen getting into one of the two helicopters that had arrived at the scene within minutes of the shootings having occurred.

One of the two women in the car gave evidence that whilst their car was stationary, having been waved down by one of the British soldiers (who removed a mask from his face whilst running towards her), she heard shooting. This, the shooting at that time, was denied by the British Army witnesses.

Forensics

The Senior Forensics Officer (SFO) arrived at the scene four hours after the killing and a decision was then made to move the bodies at 9.00pm with the scene to be preserved pending further examination. According to Dr Kemp who attended the scene the remains were escorted to the mortuary at Omagh at 11.25pm. The three guns belonging to the IRA unit were also collected along with other items and removed at the same time. From the outset, and this is not disputed, sixteen rounds were fired by one of these guns. The other two were not used during the attack. What is disputed is **who** fired the gun.

The lorry used in the operation had a closed

storage area that contained within it sheets of fibreglass with bags of coal stacked behind the fibreglass. This was used to protect four members of the British army who were in the lorry.

The gun that belonged to the IRA unit discharged 16 rounds. It was set on automatic.

The SFO stated that there was no evidence of close-range shooting – close range being defined as less than 3-4 feet. The total number of rounds fired was 236; however 29 spent cartridge cases were not recovered.

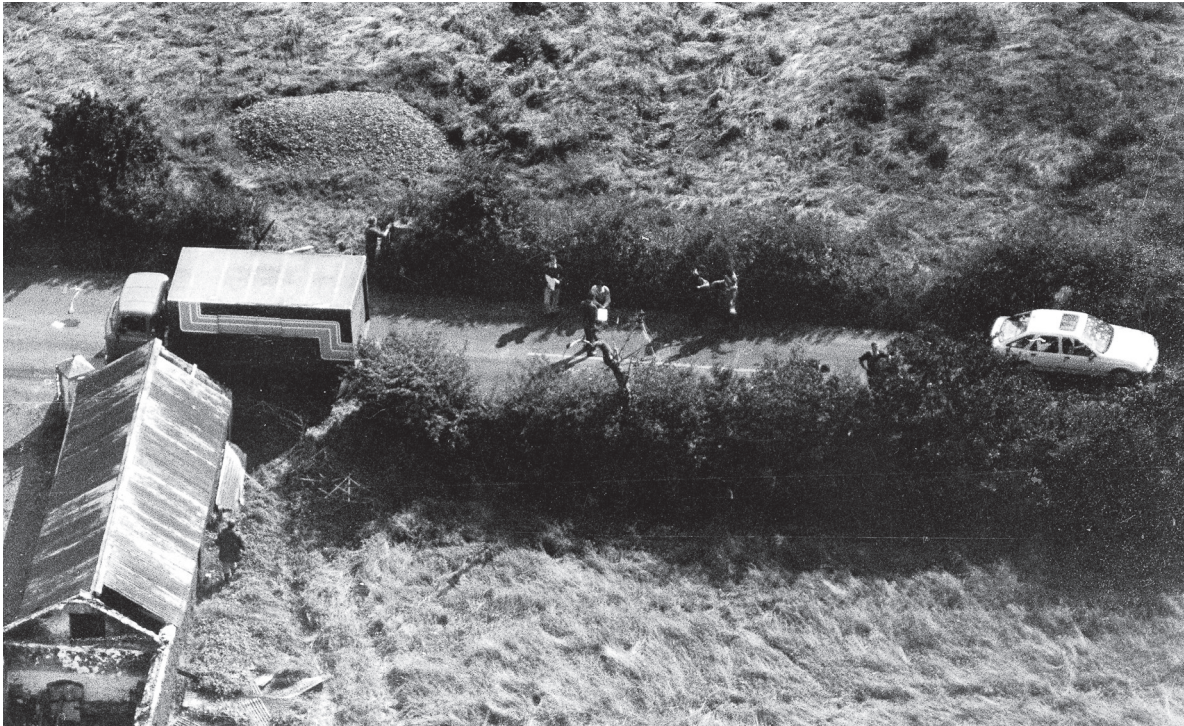
RUC involvement before and shortly after the incident

Sergeant A gave evidence to the effect that when he commenced duty at 9.00am on the morning of 30th August he was briefed that a military operation was taking place in the Omagh/Carrickmore area. He claimed not to know any detail beyond this. At 3.59pm he was directed by radio transmission to go to Drumnakilly and arrived at the scene two minutes later at 4.01pm. He had a “quick talk” with some of the soldiers and they were helicoptered out of the area shortly after he arrived. Sergeant A was responsible for sealing off the area.

British Army version

The British Army account was led by a Soldier M who in his own words “was responsible for planning the operation”. Soldier G was a patrol leader who seems to have coordinated with Soldier M. The lorry had one driver wearing civilian dress and there were four soldiers hidden in the rear of the lorry. These soldiers were claimed to be in uniform. Before the shootings occurred, the lorry drew up beside the patrol led by Soldier G. The patrol was concealed alongside the Drumnakilly road, and the four soldiers concealed in the lorry joined the patrol led by Soldier G. Soldier M, who was dressed in civilian clothing, proceeded to behave as if the lorry had a flat tyre and he was in the process of changing it.

Soldier M, the coordinator or planner of the operation was interviewed on 8th September 1988 and 7th November 1990. It is unclear as to why he



View from the air - scene of the killings

was interviewed so late on 8th September, eight days after the killings, or why he was subsequently interviewed in November 1990.

Soldier M was, "asked to mount the operation based on intelligence given" and later stated, "we were ready for anything". Soldier "M" claimed not to know the identity of those targeted by the operation. The "pop" referred to by the witness in the field was not absolutely addressed. Soldier M offered the suggestion that it could possibly be explained by a phenomenon called, "a crack on the thumb". The submission by the family's lawyer was that the three "pops" heard by the witness were short arms (pistols) used to ensure the three men were dead.

When it was put to Soldier M that the Armalite had been discharged after the three men had been shot dead to make it look as if they (the three IRA men) had opened fire first, Soldier M's response was, "I think that's absolutely untrue".

Soldier M then went on to say that he sought police assistance by radioing someone else who then radioed Sergeant A who subsequently arrived at the scene two minutes after being contacted. It was not made clear who the someone else was but would suggest there was an external control point

where operational tactical decisions were being made.

Soldier M was very clear that the aim was to make an arrest. The "plan was to draw them into our ruse, which it clearly was, and to try and effect an arrest". Later he said "It was to draw them into a situation where we could effect an arrest. Now whether they choose to fire or whether they came up beside me and tried to shoot me at that point, really is down to them." When pressed by the families' solicitor that it had been "a sting", a shoot-to-kill operation and there was never any attempt to arrest the men Soldier M again referred to the "ruse" and reiterated what he had said previously, namely, "Our primary aim on every operation is to make an arrest. If the opposition decide to do otherwise, then the game is set from that point."

When asked why there was, "not a single policeman among the people who were on the ground on this occasion" Soldier M replied, "We don't do combined operations sir". This clearly flew in the face of the available evidence and was not tested further. The SAS may have taken the lead in the operation, that is, carried out the shootings, but the RUC were involved, even if only on the periphery on the ground. They were briefed that



an operation was going to happen, a mobile unit was two minutes away and a witness identified RUC personnel around one of the helicopters. The relationship is likely to have been more concentrated from afar, namely in the context of tactical planning. If we are to take Soldier M's statement at face value then the SAS were free-lancing, accountable to no-one but themselves and operating outside the rule of law.

The Daily Telegraph in an article carried shortly after the shootings gives some insight as to how undercover operations were conducted around this time. The claim is made that undercover "Intelligence and Security Groups" underwent a six-week training program provided by the SAS, that there were four of these groups, one attached to each of the three Army brigades in the north of Ireland and the fourth to British Army HQ reporting directly to the Commander of Land Forces, "The groups are said to be deployed at the request of police 'who run all intelligence operations'".⁴² This is in contradiction of Soldier M's inference that there was no RUC involvement in the operation at Drumnakilly.

It was pointed out that there was a discrepancy in relation to the removal of weapons by British Army personnel before scenes of crime personnel arrived. Soldier C said he moved two weapons in his written statement, yet Soldier M denied that any had been moved. All the soldiers, by Soldier's M's admission, would have been aware of the importance of preserving scenes of crime yet this had not occurred.

Another question was raised by the families' solicitor as to why there were no fingerprints on the guns moved. The explanation given by Soldier M was that the, "Odd guy was wearing gloves because they had been out all night". Apart from giving some idea that this operation was "live" for a period much longer than implied at the inquest the response also ignored the fact that it was a warm summer's afternoon in August.

When the lawyer for the state enquired if there was, "any opportunity to effect an arrest of the

people in the car" Soldier M replied, "None at all, sir, no. It was a complete surprise.... we just had to deal with the situation as it was presented to us."

Soldiers K and L also gave evidence. Soldier K claimed not to have been a shooter, but he revealed that the soldiers had been issued with non-standard Heckler and Koch G3 rifles. The standard issue was the SA80 rifle. Soldier K revealed that the G3 had a heavier velocity.

Soldier L said that three of his colleagues had opened fire after the IRA unit shot first. The coroner was to say later in his summing up that ten soldiers fired shots at the three men. He (Soldier L) also said that there had been a gap followed by British army firing. He did not give more detail than this with respect to the claim that there had been several bursts of gunfire. He also stated that no firing occurred after the "stop" command was given.

Soldier N was the last of the soldiers who gave evidence to the inquest. He was travelling in one of two un-marked military vehicles approximately thirty seconds drive or 800 metres from the scene when he heard the shooting. He gave evidence to the effect that he knew about the operation. He disputed the female civilian witness evidence that there was shooting as they (the two women) were stopped by one of the soldiers at the scene.

When summing up, the families' solicitor noted that there were no fingerprints on the weapons despite having been touched by Soldier C, interviews with the police had taken place at least two days after the killings and in his view a story had been concocted "to suit the version of events which they (the soldiers) wish to have believed". He noted that it was four hours before the ballistics expert turned up and suggested that the RUC were part of the operation.

The Coroner took a different view which is reflected in a draft finding he presented to the jury before they deliberated on their findings. The use of a draft finding in coronial proceedings is unusual and is distributed to the jury in "difficult" cases. Juries are entitled to ignore draft findings, but it is essentially a summation of the key facts as the coroner sees them. In this case the jury agreed with the draft findings with some changes. One key change related to the coroner's inference that the

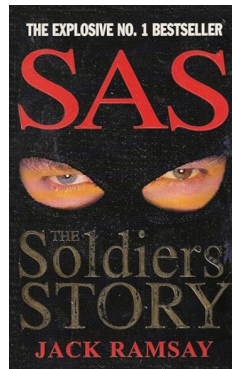
42 Irish Information Agenda: a database of facts and information on the Northern Ireland conflict and Anglo-Irish affairs. pg. 212. Pub 1990.



soldiers fired first. The jury stated that, "As to who fired first the jury cannot be sure from the evidence given as it was not conclusive".

Another British Army (SAS) account

It is reckoned over 250,000 personnel served during "Operation Banner" - the name used by the British Army to describe their role during the conflict. Some have written about their experiences whilst "on tour" in Ireland. With few exceptions, these publications usually adhere to the British state self-serving narrative of peace keeping, keeping the (Catholic and Protestant) natives from killing each other, maintaining law and order, being the ultimate restrained and impartial professionals, not being above the law, and other such tropes that have been demolished by a range of authors including Murray⁴³, McGovern⁴⁴, and O'Leary⁴⁵.



Jack Ramsay's "SAS The Soldiers' Story" fits the genre of poorly written pulp fiction emanating from pro-British state sources that have been written about the conflict. Of relevance to this report there is an account of the Drumnakilly killings by two individuals nick-named "Mack" and "Johnny Two-Combs" both of whom were members of the SAS and were involved in the killings. Ramsay claims "Mack" was also involved in the Loughgall ambush the previous year.

As stated earlier, the attack was planned and operationalised over a matter of weeks. There was nothing casual or accidental about the outcome. "Mack" asserts a reactive OP (a mobile observation post) was stationed outside the house of the coal-delivery and UDR man for three weeks and further

claims a unit from the IRA aborted an attack at the last moment. Tactics were then changed to substitute the target for a member of the SAS and create a situation where the IRA would likely mount an attack.

"Mack" claims the house (presumably Sarah's shop) had been used as a "base" several times previously and he was part of an SAS team that had been placed there the night before the attack. The numbers involved in the operation were significant. Nothing was left to chance. Road junctions were covered by "blokes from DET... so as to be able to give us advance warning of the arrival of the hit squad", there were also, "three cars up and about driving around looking for the enemy", also referenced is, "a quick-reaction force of covert police also in the area, ready to move in and provide assistance if needed".

When the lorry arrived at the location, guided in by radio contact, four SAS men emerged from the back of the lorry and, "also positioned themselves along the ditch in under the hedgerow."

An important disclosure is that the operation was being recorded and that it was a joint RUC/British Army operation - "We were aware our base could hear everything we said (and that it was being tape recorded) and that our boss and several very senior anti - terrorist police officers were also monitoring our operation".

"Mack" claims that Gerard, Martin and Brian made two passes of the lorry in, "a grungy orange car" after having been given an alert over the radio from "a voice I hadn't heard before that moment". The decoy lorry driver had been pretending to change the lorry's tyre for two hours. Consideration was being given, according to "Mack", to terminating the ambush when he was alerted by radio that the three targets were approaching in a white Ford Sierra. From his own account "Mack" moved from under the truck to its back, "in order to have some cover and also to be able to get a clear line of fire". He claims there were bursts of automatic fire coming from the Sierra from 100 metres and the car was travelling at 40mph.

He, "Mack", claims to be the first British Army member to open fire when the car came level with himself - "I put a burst (nine rounds) into it". The

43 *The SAS in Ireland*, Murray Raymond, pub The Mercier Press, 1990

44 *Counterinsurgency and Collusion in Northern Ireland*, McGovern Mark, pub Pluto Press 2019

45 *A Treatise on Northern Ireland*, O'Leary Brendan, 3 Vols, pub Oxford University Press, 2019



car apparently stopped after another 10 metres of travelling. It is worth quoting “Macks” account of what happened next. “The next second the rest of the guys (SAS) opened up from their positions in the hedge. It was nice. Very nice”.

The narrative is then taken up by “Johnny Two-Combs”. He was in the hedge in front of the lorry. He claims to have gotten onto the road, saw a man in a blue boiler suit get out of the car from the passenger side with an AK47. “I was quicker to the draw, I fired a short burst into him and he fell. I knelt down and fired an accurate burst into him. I turned my attention to the others and they had been dealt with”

The account is then resumed by “Mack”. “As the others were firing, I stepped into the middle of the road and pumped rounds into the back of the fucking car. It was all over in seconds”. He then radioed his base after a civilian car was seen approaching the area in which the ambush had taken place saying, “Hello, we’ve just had contact”. By his account Brian, Gerard and Martin were dead. He then radioed for the presence of the RUC Quick Reaction Force (QRF).

The QRF was, “hiding in bushes and on up the road appeared and so did the scene of crime officers”. According to “Mack” the police marked the positions of the SAS, “...when the attack began. One of them marked each of our positions. Once he was finished, I asked if we could leave, and he gave us the all-clear”. Minutes later two helicopters appeared, “they took most of us, while the rest left in our vehicles”.

Back, “in the Barracks”, “Mack” claims weapons were handed to RUC personnel then he and others were flown, “back to our own base” where they were, “joined there by police who were involved”. What happened next is worth quoting in full. “I did my written notes straight away while everything was fresh in my mind. I always used to do this. Afterwards we spoke to several officers and had a drink. We didn’t go mad. We knew it was straight back to work soon afterwards. We also knew that we would have to give police statements about the incident the following morning.”

This SAS account adds to the many questions that require answers. This account makes it clear



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the SAS did know the targets, there was a lot more intensive participative cooperation with the RUC than was stated at the inquest, that the operation was recorded whilst in progress was not disclosed at the inquest, there was at least an overnight period before statements were provided to the RUC investigative team, there is no mention of British Army and RUC personnel having been separated prior to questioning, consequently there was every opportunity to concoct a story that would omit inconvenient facts. There are also conflicting accounts that require further examination, ideally and initially by a new inquest.

Events after the killings

With respect to events immediately after the killings there was no attempt by the police to tell the families of the death of their loved ones. When members of the family went to the mortuary in Omagh there were dozens of RUC personnel with dogs outside the entrance. The few who were permitted entry had to walk a gauntlet of growling



barking dogs, encouraged to do so by their handlers.

The coffins were moved from the mortuary to Ballybrack Road via a loyalist estate. The families felt this was a deliberate and unnecessary diversion with ulterior motives adding to their burden and to stir up feelings of hatred from the loyalists in the estate and to create a situation where conflict could have been an outcome adding to the upset being experienced by the families.

Teresa, sister of Gerard and Martin recalls, "I'll never forget taking mammy up to Gerard's house and us receiving the devastating news. I just held mammy in my arms - she was so frail - so fragile - as we comforted one another. Words were, and still are, so inadequate.

"I recall waiting for Nishey to come to Striff and then we drove to the scene at Drumnakilly. Daddy was already there with the doctor. Nishey and I tried to push past the soldiers, but they prevented us. We stood with daddy. Some press arrived. We then went to get the priest.

"The following day Nishey and I went to the morgue to identify Gerard and Martin. There were a ton of armed soldiers outside. They were snickering at us. Despite our grief and heartache Nishey and I agreed to hold our heads up and not breakdown in front of them. In contrast we held our dignity. Once inside the morgue reception one of the people who worked there advised me not to go into the where the bodies were. I determined I was going to see my brothers. The scene that greeted us was beyond belief. We tried to remove Gerard's wedding ring, his arm just dangling. We were told we couldn't do that. After identifying Gerard and Martin we left.

"We put our chins up and left. We were again greeted by a chorus of mocking and unrepeatable remarks. Once in the car our emotions broke. We drove straight to Fahey's (solicitors).

"I can't recall how we related the identification to mammy and daddy. I also remember at one point during the removal of the bodies some British soldiers had dogs on leads that they had deliberately agitated towards mourners. It was just very intimidating. We were constantly worried for mammy and daddy."

Both Martin and Gerard were waked at Roisin and Gerard's house at Ballybrack Road, Loughmacrory.

Given the level of police harassment it was felt easier to hold the wakes at the one venue. Gerard's coffin was closed whilst being waked.

Members of the family recall people who were coming to the funeral being harassed and assaulted by RUC officers. One individual had a blood-stained shirt after having been attacked by RUC personnel.⁴⁶

Fr Murray records that policemen laughed, joked and ate their lunch during the funeral mass of Brian Mullin and in general conducted themselves in a manner that can only be described as offensive.

Fr Murray concluded his overview of the aftermath of events at Drumnakilly by a summation that clearly identified the state of relationships between British state actors and civilians in County Tyrone.

"The shooting of the three IRA men was followed in subsequent months by intense harassment of the Catholic people in Tyrone. Numerous complaints followed by assaults, harassment and house-wrecking by the RUC, British Army and UDR".

Outstanding Questions

Relatives for Justice support the families in their quest for truth and accountability. Specifically, the following questions need to be addressed and answered in full:

- Why were the three men not arrested and subject to due process if their activities and associations were so well known?
- Who authorized the use of the SAS in this operation and for what reason?
- Why was the investigation tardy and perfunctory providing soldiers the opportunity to collude about devising a state narrative?
- Was an agent, or were agents used, in this intelligence lead operation?
- Were agents provocateurs used with the foreknowledge of the British Cabinet, or some members of the Cabinet?
- Which elements of state actors were involved in the coordination role with respect of the operation that resulted in the deaths of the three men?

⁴⁶ Taken from interviews by RFJ with members of families.



- Which elements of the British forces were involved in the ambush both directly and indirectly?
- Who briefed the British press (Daily Express, The Times, The Sun, The Star, The Star, Daily Mirror, Today and Evening Standard) that linked the killings with that of the Ballygawley bus bomb and the Drumnakilly ambush?
- What evidence exists that would support this claim?
- Was the operation “accelerated” in response to the Ballygawley bus bombing with political and military pressure being exerted?
- Why was the Harte brothers experience of the UDR and RUC the few days prior to their deaths less intrusive and aggressive than had been the case up until then?
- How does the state explain the behaviour of the RUC after the killings, when the bodies were deliberately routed through an area considered to be a loyalist estate from the hospital morgue in Omagh?
- How does the state explain the conduct of the RUC during the funerals of the Harte brothers when the families and mourners were subject to abuse and offensive remarks and at least one civilian being assaulted as referenced in Tyrone’s Voices?
- How does the state account for the numerous and heightened assaults, harassment and house wrecking by RUC, British Army and UDR as recorded by Fr Murray in the months after the killings?
- Why didn’t the police contact the families as required under Article 2 of ECHR?
- What was the role of Ken Maginnis prior to the three men being killed?

The questions can only be answered by the British state. Under Article 2 of the European Convention of Human Rights, of which the UK is a signatory, there is a legal obligation by the UK government to investigate suspicious deaths effectively. Effectively means independently, prompt and transparent (Jordan and others v UK 2001). Given the number of questions identified, which are by no means exhaustive, this test has clearly not been met.

The opportunity for the families to obtain the truth they are entitled to is retreating if the British government is to have its way. Always obfuscating and delaying when it comes to dealing with disputed killings in the north of Ireland particularly when there is state involvement, the most recent attempt to avoid truth telling, and therefore justice, is manifest in the recently enacted NI Troubles (Legacy and Reconciliation) Act, a legal misnomer and an exercise in disingenuous conflict resolution if ever there was one. It is breathtaking in its intended disregard for the needs of families of victims and survivors.



As RFJ have maintained, “This Act is specifically designed to remove the rights of all victims to effective independent investigation, remedy, accountability and ultimately justice. It significantly undermines the rule of law, rights and entitlements enshrined not only in the Good Friday Agreement (GFA), but also international law.

In the two decades since the GFA successive UK governments, with the NIO, PSNI and MoD, have done everything in their power to thwart the application of the rule of law in order to shield the



UK state from exposure of their role in the conflict. The Legacy Act places the British government in control of a deeply flawed process by which they alone determine who to punish, attribute blame, and continue its programme of anonymity and impunity, all this by lecturing victims that this Act is in their best interests.

This is typically self-serving and primarily in the interests of privileging state perpetrators and their agents. Overall however, this proposed bill privileges all perpetrators to the detriment of victims and their rights.

The British government has once again opted to abandon its agreement on legacy with the Irish government and all the executive parties by acting unilaterally.”⁴⁷

In essence, the British government, alone and without support from others locally, nationally, and internationally, is blocking access to the truth and justice sought by those most affected by the conflict, through fear of exposure. It was ever thus.

Conclusion

What happened in Drumnakilly in 1988 was an appalling event that was to have tragic consequences for Gerard, Martin, Brian, their families and loved ones that are still felt to this day. Part of the tragedy is that the British government was engaged in a strategy where military ideology was trumping that of the political. It is clear the three men were victims of a policy that has yet to be acknowledged by a government that was actively seeking to problem-solve by killing (by their own definition) their own citizens. The rule of war had indeed replaced the rule of law despite protestations to the contrary in the British narrative. Even if one were to apply the standards of the Geneva Convention this was a breach of that convention.

It is unlikely that closure will ever be fully realized, but what is required is an acknowledgement and

full account of events that contributed to the deaths of three men who were held in high esteem and contributed much to their own community in the context of conflict. It is already too late for Nishey Harte, Sean Harte and Cissie Mullin, brothers of Gerard and Martin and mother of Brian respectively, who passed whilst this report was being compiled.

Nishey, Sean and Cissie never gave up in their dignified and diligent pursuit of truth and justice when they were alive. All passed with truth and accountability being denied. They lived with the trauma and heartache of these killings that forever changed and framed the rest of their lives. They too are missed and deeply mourned. This report would have been impossible without their resolve and determination. Therefore, it is also their legacy.

It is clear this report is primarily about Gerard, Martin and Brian. It seeks to recount not only the events on and about that day in August 1988; it also seeks to understand them in a wider context of the conflict that was raging at that time. There are many questions that need answers but ultimately this is a testimony to three people who can be defined by all they did, personally, socially and politically in their relatively short lives.



Gerard Harte

Martin Harte

Brian Mullin

47 RFJ Press release issued 30th May 2023. At the time of the press release, the legislation was still at the Bill stage being heard in the British House of Lords.



GERARD HARTE, MARTIN HARTE AND BRIAN MULLIN

*"Despite our grief and heartache,
we agreed to hold our heads up and not break down
in front of them. In contrast, we held our dignity."*

Teresa, sister of Gerard and Martin



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