

Judicial Communications Office

11 April 2024

IN THE MATTER OF AN INQUEST INTO THE DEATHS OF LAWRENCE JOSEPH McNALLY, ANTHONY PATRICK DORIS and MICHAEL JAMES RYAN

SUMMARY OF CORONER'S VERDICTS AND FINDINGS

Introduction

Mr Justice Humphreys presided as Coroner over the inquests into the deaths of Lawrence Joseph McNally, Anthony Patrick Doris and Michael James Ryan which occurred on 3 June 1991 at Coagh, County Tyrone. All three were members of the East Tyrone Brigade of the Provisional IRA ("PIRA") and were on active service. They met their death following engagement with members of a Specialist Military Unit ("SMU"), a unit within the British Army.

The inquest focussed on identifying how, when and where the deceased came by their deaths. In particular, it considered whether the military operation which culminated in the deaths was planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force and whether the actual use of force was justified in the circumstances.

The Coroner concluded, in each case, that the use of lethal force was justified as the soldiers had an honest belief that it was necessary in order to prevent loss of life. He said the use of force by the soldiers was, in the circumstances they believed them to be, reasonable.

The Coroner also concluded that the operation was not planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force.

The Intelligence and Planning of the Operation

The RUC Special Branch ("SB") received intelligence that East Tyrone PIRA intended to murder a former member of the UDR in Coagh during the weekend 31 May to 3 June 1991. The intelligence did not identify the potential assailants, nor did it specify the manner in which the attack was to be carried out, however it was known that the potential target parked his car at a public car park in Coagh each morning around 7.30 am.

The RUC was aware of the weapons capability of the East Tyrone PIRA and for this reason a decision was made to involve the SMU in the operation put in place to respond to the intelligence received. **Soldier M** was the Officer Commanding ("OC") the reactive sub-unit of the SMU with responsibility for arrest and detention and took charge of the planning and control of the operation. A former RUC Detective Inspector told the inquest that the purpose of the operation was to protect life by preventing the attack occurring and to protect the public generally by arresting the assailants. Another feature of the plan would be to protect the origin of the information received by SB.

The SMU was tasked to mount a "hard arrest" operation. It was recognised that such an operation may involve the use of lethal force but, in Soldier M's analysis, this was dependent on the actions of the terrorists concerned. Initial planning commenced with reconnaissance of the location of the car

Judicial Communications Office

park on 29 May. A detailed plan was then formulated which included a “reaction group” to effect the arrests, a “cover group” to provide some immediate protection for the target which would be located in a modified flatbed truck disguised as a builders’ lorry, an “observations group” located in the Hanover House Hotel, and the intended target being substituted by a soldier dressed to resemble him.

The Events of 3 June 1991

On 2 June 1991 at around 23:50, four masked men held a family in a nearby village captive until around 07:30 the following morning when the men left taking the family’s red Vauxhall Cavalier. The family were warned not to report the matter until an hour later.

The soldiers who were members of the reaction group and the observation post in the hotel had been deployed in the early hours of 3 June. The Bedford lorry containing the cover group and the car driven by the substitute target (**Soldier L**) arrived in front of the hotel and in the car park respectively before 07:30. Soldier L exited the car and stood against the toilet block wall reading a newspaper. The Cavalier arrived in Hanover Square shortly afterwards. Initially, one of the soldiers in the observation post in the hotel (**Soldier H**) could only see one person in the car but as it approached two others “popped up.” At this stage Soldier H said over the radio “red car three up.” This, together with the speed of the car and its low gear, made him suspicious and he transmitted “standby standby” on the radio. This instruction meant radio silence – only Soldier H could then speak.

The Cavalier came to a halt at the car park entrance. The rear passenger door opened, and a man, wearing a balaclava rolled up to the top of his head, armed with an AK-type rifle started to get out, pointing it in the direction of Soldier L. Soldier L threw himself over the wall at the rear of the car park and fell to the grass bank below. Soldier H gave the order “go go go” which was an instruction to the cover group and the reaction group to move immediately as Soldier L’s life was in danger. The Cavalier began to move forward and the man with the rifle fell back into the car. The side of the Bedford lorry was lowered, and **Soldier A**, the team leader of the cover group in the lorry, fired a volley of shots at the man holding the rifle. The Cavalier was struck by several rounds, and it began to move towards the centre of Coagh where it crashed into a parked Volkswagen Golf some 20 to 30 metres away. Soldier A exited the lorry and took up a position at its off-side rear corner. He fired a further three shots into the rear of the Cavalier, directed at the same man holding the AKM rifle. The Cavalier became engulfed in flames and the sound of rounds ‘cooking off’ could be heard.

Under questioning by counsel for the NOK, it was put to Soldier A that a verbal warning ought to have been shouted at the occupants of the Cavalier in accordance with the Yellow Card, but he responded that such was the immediate threat to life to Soldier L that there was no time for such a warning to issue. Counsel also challenged Soldier A about his decision to continue firing aimed shots after the Cavalier had begun to move away and that these shots were not justified. Soldier A stated that the gunman in the rear of the Cavalier continued to point his rifle in the direction where Soldier L had been standing. Soldier A also maintained that there was still a threat after the Cavalier had crashed. He disagreed with the assertion that these shots were unjustified or in breach of the guidance in the Yellow Card.

Soldier B was also a member of the cover group in the lorry. On hearing the command “go go go” he released the side of the lorry and could see the Cavalier with a man armed with a rifle in the rear. As the vehicle started to move forward, Soldier B opened fire on the driver who was wearing a dark coloured hat. He fired a total of eight rounds until the vehicle went out of view. Soldier B saw the

Judicial Communications Office

members of the arrest group come from his left and move up the road in the direction of the Cavalier which had by then crashed. These soldiers were using suppressing fire, in order to prevent fire being returned, and moving towards the crashed vehicle.

Soldier C, now deceased, was interviewed by the RUC on 12 June 1991 and the notes were available to the inquest. He also fired shots from the prone position in the bed of the lorry towards the Cavalier. After the car had crashed, Soldier C described a “fire fight” as “still going on.” He moved towards the vehicle in the company of Soldier G and could see two men on the ground, on the passenger side of the vehicle, with weapons in their hands. Both Soldiers C and G fired at these individuals then moved away as the car was becoming engulfed in flames. **Soldier D** was the fourth member of the cover group. He fired nine aimed shots at the man in the rear of the Cavalier before it sped off out of view. In his evidence to the inquest, Soldier D stated: “I recall now that I saw an object flying out of the car on the passenger side which I remember thinking at the time looked like a balaclava.” He did not mention this during his police interview 6 June 1991 and was unable to offer any explanation as to why he would have omitted this despite the fact he was specifically asked if the men were masked and was told a mask was found at the scene.

Soldier E was the patrol commander of the arrest group. When he heard the call on the radio of “go go go” the arrest group ran down the side of the hotel. Soldier E could hear loud bursts of gunfire and by the time he arrived on the road, at the front of the group, the Cavalier had already crashed. He could see people in the car and believed there was a threat to him and others. He fired shots into the front and rear of the car and believed that gunfire was being returned. Together with others, Soldier E engaged in suppressing fire, firing and moving towards the target in a manner intended to prevent fire being returned by the target. He fired a total of 20 rounds. He was able to see Soldier G get into position at the rear of the vehicle to engage the individuals. When he got close to Soldier G, he could see two bodies lying on the ground with AK rifles nearby and the driver of the vehicle lying across the front seat. Soldier E gave the order to stop firing once he realised the men were no longer a threat.

Soldier F made a statement to the inquest but subsequently sought medical excusal from giving evidence. Even though special measures were put in place to accommodate him, Soldier F refused to attend the inquest and failed to answer a subpoena. He was found guilty of contempt of court by the Outer House of the Court of Session on 9 February 2024. His evidence was therefore not tested by cross-examination. In his statement, Soldier F recalled seeing two people inside the Cavalier, one pointing a rifle. He fired aimed shots at that individual but did not move from his original firing position.

Soldier G was also a member of the reaction group. He ran up the laneway in response to the “go go go” radio command. He said he heard automatic gunfire, which would not normally be military fire, and therefore believed that fire was incoming. He believed he and his colleagues were being fired upon from the Cavalier and he fired six aimed shots at the individuals in the rear of it. He ran forward and could see two men in the car, one holding a rifle in a position from where it could be fired. Soldier G fired a further six aimed shots at him. As the man exited the Cavalier from the rear passenger side, Soldier G fired a further four or five aimed shots at him. He then went round to the passenger side and observed the man crouched on the ground, holding the rifle. Soldier G fired a further three shots at him from close range. Soldier G then observed another man emerging from the Cavalier holding a rifle. As he was partly out of the door, he fired two aimed shots at him but then had a stoppage as the magazine was empty. Soldier G changed his magazine and then, believing the second man to still represent a threat, fired seven rounds at him. He stopped firing once he was no

Judicial Communications Office

longer a threat. In total Soldier G fired 27 shots. Soldier G was questioned in detail about the use of suppressing fire. He stated that this was part of the SMU training with the object of putting fire down on a location to stop the enemy being able to open fire on you. His assertion that there was no attempt by the PIRA unit to surrender was challenged on the basis that this would be impossible whilst subjected to suppressing fire.

Soldier I could not be located and did not give evidence to the inquest. However, the notes of an interview conducted by the RUC on 12 June 1991 stated that he followed the rest of the arrest group. He believed fire was “coming down on the patrol from the Cavalier” and moved forward to a secondary firing position where he could see two men outside the car in crouched positions holding weapons. He then “engaged the terrorists until the threat had ceased.” He fired a total of 20 rounds.

Soldier J was also a member of the arrest group. Following the “go go go” command he ran up the side of the hotel. He believed the terrorists in or near the Cavalier were firing weapons at the soldiers although he accepted that there was no objective evidence to support this conclusion. He fired suppressing shots from a kneeling position at the car, then moved forward and fired further suppressing shots. In total he fired some 15 rounds. In his evidence to the inquest, Soldier J stated that he recalled being shown the tubular frame of the lorry’s wing mirror on the passenger side having had a strike mark (bullet damage). When interviewed by the RUC on 6 June 1991, Soldier J made no reference to any strike mark or bullet damage to the Bedford lorry. He offered no explanation for the omission from his police interview of this important information but was able to say that the reference in his statement to the inquest came about as a result of a consultation with his legal advisers.

Soldier K was the driver of the Bedford lorry and was at the rear of the reaction group as they proceeded along the lane at the side of the hotel. He heard a lot of gunfire and believed there was a fire fight. Soldier K moved forward and fired two shots at the crashed vehicle in the belief there were gunmen in the car and the lives of soldiers were under threat. He had not seen any gunmen but was acting in response to the reaction of his colleagues. He too stated that he saw the strike mark on the lorry’s wing mirror but made no mention of this when interviewed by the RUC. Both Soldiers J and K were asked if they had colluded to introduce this evidence of a strike mark or incoming round in advance of the inquest proceedings but denied that this was the case.

The inquest also heard evidence from a number of RUC HMSU officers who were in the vicinity of Coagh on 3 June 1991. Their role was to act as a quick reaction force (“QRF”) and provide a cordon around the village. They were not, however, to be directly involved in the SMU operation. The inquest also received evidence from a number of civilian witnesses who were residents of Coagh.

The Destruction of the Video and Other Evidence

When the SMU soldiers returned to base on 3 June, Soldier U, who was in an unmarked van parked at the crossroads of Main Street and Hanover Square, informed Soldier E that he had made a video recording from his surveillance location. Soldier E watched the video which showed the actions of the soldiers. His particular concern was that the video showed the faces of SMU soldiers, including Soldier E, and he believed this could compromise their security. Following this, the video was destroyed. The Coroner commented:

“There could scarcely have been more probative and significant evidence of the events which unfolded at Coagh than a video taken from close range showing the arrival of the vehicle and the engagement of the soldiers with its occupants. If this had been

Judicial Communications Office

available, it would have rendered the task of the inquest on many of the issues straightforward. It would also, of course, have been of central importance to the RUC, whose role it was to assess whether any crime had been committed by the soldiers. Instead of preserving this vital evidence, soldiers made a decision to destroy it, without reference to [the Commanding Officers of the SMU units].”

When asked if he had destroyed the video, Soldier E claimed his privilege against self-incrimination. Soldier M, the Commanding Officer of the reaction group, gave evidence that in 1994 he was made aware by Soldier E of the existence of the video and that he and another soldier had destroyed it, fearing it may “fall into the wrong hands.” No action was taken to investigate or inform the RUC of what had occurred.

The Coroner further commented:

“The attitude of the soldiers who gave evidence to the inquest in relation to the destruction of the video demonstrated a clear and unequivocal willingness to subvert the rule of law. The possible revelation of the identities of any member of the SMU, even to the RUC who had primacy in the field of law and order, took precedence over the investigation of crime and the proper administration of justice. Even when one takes into account the particular security issues which were prevalent in 1991, the fact remains, as the soldiers were well aware, that the work of the investigating police officers and of the coroner in fulfilling his statutory responsibility have been fundamentally undermined by these actions. Rather than condemning them, the response of senior officers in the British Army has been to excuse, justify and support such reprehensible conduct.”

During the course of evidence presented to the inquest, reference was made to various documents or classes of document which would, at one time, have been in existence. Despite the obvious awareness of an ongoing RUC investigation and the requirement to hold an inquest in due course, decisions were made by military personnel to destroy such documents. The Coroner said that the corporate position of the MOD, as presented to the inquest, was that the destruction of the video should not have happened but this must be seen in the light of the routine destruction of other relevant evidence which would have contributed substantially to the ability of this inquest to conduct its statutory role.

The RUC Investigation

In the course of the inquest, criticisms were levelled by the representatives of the NOK at the RUC investigation into the killings at Coagh, describing it variously as desultory, perfunctory and slipshod. The Coroner stated that the RUC interviewers were unable to explain why no questions were asked of any soldier about the planning of the operation, or about any briefing or any documents which might exist outlining the intelligence or the means by which an arrest was to be achieved. No documents were requested or sought by the RUC from any of the witnesses or the SMU. No questions were asked about the Yellow Card or how its guidance was applied on the day. A document disclosed by the MOD in the course of the inquest, dated 24 August 1987, was entitled ‘Duties of the Northern Ireland Flying Lawyer’. The ‘Flying Lawyer’ was described as the individual tasked by HQNI to assist soldiers in cases where weapons have been discharged and the matter is under investigation by the RUC. The document indicated that the RUC would often be content to postpone the holding of interviews, offering a ‘chance to unwind’ which would be unlikely to be

Judicial Communications Office

afforded to any other suspect in a criminal investigation. It also presented the very evident risk that witnesses would 'get their stories straight' before being subjected to interview.

A report was provided by the RUC to the Director of Public Prosecutions which recommended there be no prosecutions arising out of the Coagh shootings on the basis that the use of lethal force was justified. The report contained no reference to the briefing given to soldiers in advance or to the plan which was implemented by the members of the SMU on 3 June 1991. When asked why such issues were not pursued, a retired RUC officer stated that he would have been told by HMSU or Special Branch not to ask such questions as it was "off limits." The lead RUC interviewer of the SMU soldiers stated that no request was made of him to refrain from looking at any aspect of the events at Coagh but when asked why no questions were directed at the planning of the operation he could not recall. In relation to the Yellow Card, he said it was "taken as read" that the soldiers understood this. Sir Hugh Annesley, the Chief Constable of the RUC between 1989 and 1996, provided a statement to the inquest. He categorically refuted the suggestion that any direction which was given to CID not to investigate the planning and control of military operations came from him or his office.

The Coroner said "the inescapable fact was that the soldiers who were interviewed after caution were asked no questions about the planning of the operation". This omission was recognised by the DPP who wrote to the Detective Superintendent ("DSU") on 10 September 1992 seeking information of the nature and extent of the intelligence available to the security forces in regard to the operation and of details of any plan in regard to the concealment and proposed role of the soldiers in the back of the Bedford lorry and the placement and proposed role of soldiers at the rear of the hotel. Over 15 months after the event, Soldier M gave a statement to the RUC in which he alluded to both the plan which he had formulated, and the briefings given to soldiers. Despite this, no request was made for any of the documents which would have been prepared and generated for these purposes. In his report to the DPP, the DSU stated that he was satisfied that the evidence contained in the papers showed that the actions of the members of the SMU were "reasonable and justified in these circumstances and that the minimum force necessary was used to prevent death and serious injury to Soldier L and to themselves."

The Coroner said these conclusions were drawn despite the obvious shortcomings in the police investigation, namely:

- The failure to challenge the accounts given by soldiers by reference to the Yellow Card guidance;
- The failure to investigate the planning of the operation at all;
- The failure to interview each of the soldiers promptly after the shootings occurred;
- The failure to properly seize, retain and test relevant exhibits from the scene; and
- The failure to identify and seek disclosure of relevant documentation from military sources.

He commented:

"Whether or not this was a result of direct orders from above, or whether it was merely reflective of the attitudes suggested in the 1987 Flying Lawyer document, it can only be concluded that the RUC investigation into the shootings was woefully inadequate. A decision was reached and relayed to the DPP on the basis of untested and unchallenged accounts of soldiers. Evidence at the scene was wantonly disregarded. No questions were asked of those who had formulated the plan and its methodology.

Judicial Communications Office

Had it not been for the holding of this inquest, many of the facts around these events would simply never have been known.”

Findings of Fact

The principal issue of fact to be determined was whether any member of the PIRA active service unit (“ASU”) fired a shot on the day in question. The former military witnesses (“FMWs”) submitted that some of the deceased fired at the soldiers from the car, however, none of the SMU soldiers stated that they saw an occupant of the vehicle discharge a weapon. A number believed that they were engaged in a fire fight, but the Coroner said this was based on the scenario which they faced and the number of shots they could hear being fired. Reliance was placed on the fact that the now deceased Reverend Orr reported having spoken to an eyewitness who referred to seeing gunmen firing from the car. The Coroner, however, said that given the nature of this hearsay evidence, and the fact that the witness is now deceased, little weight can be attached to it

The alleged damage to the frame of the wing mirror of the Bedford lorry was not raised with the police by either Soldier J or Soldier K in the days after the accident. The first time it was mentioned by either was some 30 years later in preparation for this inquest. No explanation was offered for this omission. On examining the photograph, the expert witnesses could not be satisfied that this showed a strike mark on the lorry. The Coroner said that, on balance, he did not accept that the lorry was struck by a bullet fired by a member of the PIRA ASU. The ballistics evidence was that there was no evidence that one of the AKM rifles was fired. In relation to the other, two cartridges that had been discharged, one was a result of ‘cooking off.’ Only one casing was found to indicate that a shot had been fired.

The FMWs postulated that since not all the casings for the cartridges discharged by the SMU were found at the scene (138 out of 149), this provided support for the contention that more than one shot was fired by the PIRA SMU. The Coroner disagreed and said the only issue was whether the shot fired from the AKM rifle was done so deliberately or not. He said it was instructive to note that the MOD classified the incident at Coagh as one in which terrorists were armed but did not open fire (in an internal document entitled “Use of Force by the Security Forces” dated November 1992). The evidence of the ballistics experts was that it was very difficult to fire a single shot from an AKM rifle when it is set to automatic mode. One expert witness contended that it was possible the rifle had suffered some malfunction after a shot was fired but the Coroner said the probability must be that the shot was fired inadvertently. He concluded, on the balance of probabilities, that no member of PIRA discharged his weapon at Coagh on the morning in question.

There were claims that SB were aware of the identities of the members of the ASU prior to the operation in Coagh and that such knowledge fuelled an approach to the operation which encouraged the use of lethal force rather than arrest. The Coroner said that aside from some disputed quotations in a thesis, there was no evidence of any such prior knowledge:

“Indeed, every witness who gave evidence to the inquest relating to the prior planning of the SMU operation denied that there was any such advance awareness of the identity of the likely assailants. Evidently, SB had intelligence that the attack would be mounted by East Tyrone PIRA and that Ryan and McNally were potential candidates to carry it out. However, I am satisfied that had the intelligence extended to the identities of those tasked with the role, it would have been shared with the SMU. I have concluded therefore that this information was not known in advance of the operation.”

Judicial Communications Office

Conclusion on the Use of Lethal Force

When considering the question of whether the use of lethal force by the soldiers was justified, the Coroner noted two important principles:

- (i) The use of lethal force by state actors must be subject to “the most detailed and rigorous examination”; and
- (ii) The requirement that “the examination must be prepared to consider every perspective. Those perspectives include a full recognition of the enormous challenges facing the police along with the urgency and almost instantaneous decision making required of the highly trained officers involved.”

The Coroner set out his conclusion on the use of lethal force as follows (paras [292] – 315]:

“The Cavalier arrived at Coagh, across the bridge, only minutes after the Maestro was parked in the car park. The message “one up” was conveyed on the radio by one of the OPs and then, when Soldier H saw two more individuals pop up within the car, he gave the “three up” message. In light of his location, this must have been as the Cavalier was approaching the end of the bridge. This was accompanied by the “stand by stand by” message as he assessed the vehicle to be suspicious.

The car then turned quickly towards the car park, came to a halt and Soldier H observed a man getting out of the rear of the vehicle with a rifle. He then gave the “go go go” instruction, meaning that both the cover group and the reaction group should deploy immediately.

As the sides of the lorry dropped, the cover group was faced with an individual with an AKM rifle aimed directly at Soldier L. The evidence of each of Soldiers A, B, C and D was that this represented an immediate threat to the life of their colleague, and they opened fire. Soldier A made it clear that there was no time, in his judgement, to issue a warning.

Soldier B fired shots at the driver of the car, whom we now know to have been unarmed at the time. His belief was that this was a terrorist team, intent on murder, and he did not know if the driver was armed or not.

The evidence of Soldier L was that he was in immediate danger, the rifle was pointed towards him and, ultimately, after he jumped over the wall, he was surprised that he had not been shot.

The vehicle began to move off and the cover group continued firing as it moved across the road. These events all happened within a matter of seconds.

The actions of the cover group were entirely within the guidance provided by the Yellow Card. There was no opportunity to give a challenge or warning to those in the Cavalier since to have done so would only have increased the risk to the life of Soldier L. The cover group fired only aimed shots and did so in circumstances where there was a clear and immediate threat to the life of Soldier L. Each of the soldiers held a subjective belief that this was the case. As the vehicle moved, they maintained this

Judicial Communications Office

belief that the individuals within the Cavalier continued to present an ongoing threat to life.

I have concluded that it is simply unrealistic, when one bears in mind the fast-moving nature of events, to draw a distinction between shooting at the occupants of the vehicle when stationary and when it was moving across the road.

The evidence of Soldier B is such that I am satisfied, on the balance of probabilities, that he shot Tony Doris at or about this time. The balaclava which was found on the roadway had been worn by him and was ejected from the vehicle during the shooting. I do not accept the distinction which has been sought to be drawn between Doris and the other occupants of the car. Each was involved in a planned operation to commit murder and together they presented a clear threat to life of Soldier L. No member of the cover group could have known that Doris was unarmed.

I have therefore concluded that each of the cover group, including Soldier B, when firing from the lorry at the Cavalier, had an honest and genuine belief that it was necessary to open fire and that such belief was subjectively reasonable in all the prevailing circumstances.

I have also concluded that the force used was reasonable and proportionate to the threat to life which was presented. There was no opportunity to issue a challenge or warning and there was no alternative or reduced level of force which would have served to mitigate or eliminate the threat to life.

The second set of circumstances concerns the actions of the arrest or reaction group when they arrived on the scene, in conjunction with the cover group after they had exited the lorry.

When the reaction group arrived on the scene, having travelled the 50 metres from the rear of the hotel, the Cavalier was already crashed into the pillar at 20 Hanover Square. They had heard shooting whilst making their way to the scene. As they arrived, the cover group were getting out of the lorry. Soldiers A and C both advanced with the reaction group and fired shots after having dismounted.

The evidence of all soldiers was that this group moved towards the vehicle using what was described as either suppressing or suppressive fire. This involved shooting at the source of the perceived threat, thereby allowing soldiers to move towards it, by reducing the opportunity for the occupants of the vehicle to shoot the soldiers.

The evidence of Soldier T, who was responsible for training many SMU soldiers, was that this was a tactical response, intended to reduce the threat to life, and which formed an integral part of training techniques. It is noteworthy that the 1971 version of the Yellow Card guidance stated that suppressive fire was not to be used but no such prohibition was contained in the version of the document in force at the time of this incident. In any event, the question for this inquest is whether the use of lethal force was justified in all the circumstances, not whether suppressive fire is or ought to be recognised as a lawful tactic.

Judicial Communications Office

The soldiers involved all gave evidence that they believed suppressive fire to be necessary to address the particular threat posed on this occasion. Two of the occupants of the vehicle were seen moving and carrying AKM rifles. There is no suggestion at any stage that they gave an indication of a willingness or intent to surrender.

Soldier E's evidence was that he believed the SMU were being fired at from the vehicle, a view he shared with Soldiers C and G.

Soldiers C and G moved into positions to the rear of the vehicle from where they could observe McNally and Ryan exiting from the passenger side. One was getting out of the rear door, holding an AKM rifle, and Soldier G fired aimed shots at him. G did so, on his evidence, in the belief that this man was going to shoot him. A second man emerged from the car holding a rifle and G fired aimed shots at him also. He continued firing until the threat had ceased.

On the balance of probabilities, both Ryan and McNally were shot and killed by Soldier G. This is clear from the evidence of G himself and the other soldiers on the scene.

The suppressive fire used by other soldiers was not, in itself, the use of lethal force. The key question for this inquest relates to the use of lethal force by Soldier G.

It is evident that neither McNally nor Ryan were significantly injured by the engagement with the cover group since each was able to exit the vehicle following the crash. This is evident both from the evidence of the soldiers and from the civilian testimony. They were each armed with an AKM rifle and showed no signs of surrender. The evidence of the soldiers in the reaction group is that they honestly believed there was a real and immediate threat to life posed by the occupants of the car and that the use of force was the only realistic option. I accept that this was the subjective belief of Soldier G at the time he engaged both McNally and Ryan and that such belief was subjectively reasonable in all the circumstances.

The fact that several of the soldiers were labouring under a misapprehension that they were engaged in a 'fire fight' does not detract from the conclusion that, subjectively, they believed an immediate threat to existed but rather reinforces it.

I have also concluded that the use of lethal force in these circumstances was reasonable and proportionate to the threat which was presented. I accept that there was no realistic alternative open to Soldier G when presented with the circumstances as he believed them to be, namely that he was under immediate threat of being shot and killed.

For these reasons, I have concluded that the use of lethal force at Coagh on 3 June 1991, which resulted in the three deaths, was justified."

Conclusion on the Planning of the Operation

Judicial Communications Office

The inquest also had to consider the question of whether the military operation was planned and controlled so as to minimise, to the greatest extent possible, the need to have recourse to lethal force. The Coroner commented (paras [318] – 329):

“By deciding to replace the apparent target of the PIRA attack with Soldier L, an obvious risk to his life was created. If the PIRA ASU arrived on the scene at speed and opened fire, his life was in mortal danger. The role of the cover group was to protect Soldier L and, in reality, this meant protecting him by the use of force. Given that these soldiers were secreted in a prone position in the back of the lorry, such force necessarily entailed opening fire. Four experienced SMU soldiers opening fire at a range of around ten feet generated a very high risk of the loss of life.

The location chosen for the reaction group was about 50 metres from Hanover Square, at the rear of the hotel. Regardless of the method of transport used by the PIRA ASU, it was always going to take in the region of seven to ten seconds from the command “go go go” to the arrival of any of these soldiers at the car park.

As Soldier M accepted, there were two possibilities in terms of the arrival of the PIRA ASU. They could have arrived on foot with weapons hidden on their persons or they could have arrived by vehicle. In either scenario it is inherently unlikely that there would be any significant time lapse between their arrival and the presentation of a threat to the life of Soldier L. It was also known that East Tyrone PIRA were liable to be heavily armed since they had access to AK weapons. Once the threat to life existed, the use of lethal force by the cover group became not only highly likely but virtually inevitable.

The location of Soldier H was also an important feature of the plan. He had a restricted view from the first floor of the hotel to his left in the direction of the bridge. If the PIRA ASU arrived from this direction by vehicle, it would only be a matter of moments between Soldier H sighting the car and its occupants presenting a threat to the life of Soldier L. In such circumstances, the cover group was never going to be in a position to issue a challenge or warning to the PIRA ASU which might have resulted in their surrender.

None of these conclusions are reached with the benefit of hindsight. They would have been obvious to experienced soldiers formulating the plan in the days prior to 31 May and 3 June 1991. The difficulties in finding a suitable location to secret the reaction group were identified by Soldier F when he conducted his reconnaissance exercise on 29 May. The time gap created by the location behind the hotel was evident to him and would have been equally recognised by the other officers concerned in the planning.

The manner in which events played out that morning demonstrated the flaws in the strategy.

- The “go go go” command was given by Soldier H when the Cavalier was only a matter of yards from the car park;
- The car stopped and one of its occupants began to get out of the car with an AKM rifle;

Judicial Communications Office

- The cover group dropped the sides of the lorry and opened fire a combined number of around 40 times;
- The vehicle moved off across the road and crashed into Golf and the wall of number 20, coming to a halt, some 40 metres up the road from the hotel;
- All of this occurred before the reaction group arrived on the scene and began to engage the occupants of the crashed car.

It is not the role of this inquest to seek to devise alternative plans which could have been put in place by the SMU. It is apparent from the evidence, however, that the SMU could always decline a task on the basis that it could not be carried out effectively or safely. It was clearly open to the TCG to make a decision simply to remove the intended target from the car park in which case no risk to life would have arisen at that time. The point is made that the risk to that individual's life may only have been postponed but that is, of course, speculation.

A plan could have been put in place whereby only the Maestro was at the car park, or the Maestro with a dummy driver, which may have brought the PIRA ASU to the scene without the consequent risk of life, at least to the substitute target. Concerns were expressed that any such omissions could have been identified by PIRA dickers but given that the ASU was located at the Donnelly house prior to driving to Coagh, it may have been difficult to relay any messages to them.

In any event, it is apparent that the overwhelming likelihood must have been that this SMU operation would result in the use of lethal force. There was never any realistic prospect of the reaction group effecting an arrest. Indeed, it is surprising that the reaction group was involved at all given that four highly trained marksmen fired some 40 shots at close range at the occupants of the Cavalier. One would have thought it likely that this engagement would have resulted in the deaths of all three occupants.

I have therefore concluded that this operation was not planned in such a way as to minimise the need to have recourse to the use of lethal force. Rather the plan was conceived in a manner which meant the use of lethal force was highly likely if not, in fact, inevitable.

This outcome has been influenced by Soldier M's interpretation of what was meant by an 'arrest' operation. In his opinion, applying the simple definition of arrest meaning 'stop', either the detention of the PIRA ASU unharmed or their killing without any harm being done to the SMU or civilians, represented success. It is disturbing, to say the least, that a senior army officer, trained in the specific demands of soldiering in Northern Ireland during the Troubles, and guided at all times by the use of the Yellow Card, could have arrived at such a conclusion.

The evidence also casts doubt on the role of the reaction group located behind the hotel. In their police interviews, within days of the incident, these soldiers referred to themselves being in a support role, supporting the cover group, and none of them was able to explain why they did not articulate to the RUC that their function was to carry out an arrest. In the absence of any other coherent explanation, I have concluded that these accounts as given to the police are, in fact, correct. There was no real prospect of the reaction group arresting any PIRA suspects unless this resulted from the initial

Judicial Communications Office

engagement with the cover group. Such was their distance from Hanover Square that the overwhelming likelihood was that the cover group would have to engage the PIRA ASU in order to protect the life of Soldier L, and the reaction group would be able to appear on the scene in order to support the cover group.”

Verdict

The deceased were:

- Lawrence Joseph McNally, born in Magherafelt on 20 November 1951, of Tyholland, Monaghan;
- Anthony Patrick Doris, born in Dungannon on 4 January 1969, of 45 Meenagh Park, Coalisland, Co Tyrone;
- Michael James Ryan, born in Ardboe on 6 July 1955, of 91 Glaslough Road, Monaghan.

Each of the deceased died around 7:30am on 3 June 1991 at Hanover Square, Coagh, Co Tyrone.

Lawrence McNally died as a result of gunshot wounds to the head and heart. Tony Doris died as a result of gunshot wounds to the head. Michael Ryan died as a result of a gunshot wound to the chest.

Lawrence McNally and Michael Ryan were shot and killed by Soldier G. Tony Doris was shot and killed by Soldier B.

In each case, the use of lethal force was justified as the soldiers had an honest belief that it was necessary in order to prevent loss of life. The use of force by the soldiers was, in the circumstances they believed them to be, reasonable.

The operation was not planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force.

NOTES TO EDITORS

1. This summary should be read together with the findings and should not be read in isolation. Nothing said in this summary adds to or amends the findings. The full findings will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

If you have any further enquiries about this or other court related matters please contact:

Alison Houston
Judicial Communications Officer
Lord Chief Justice's Office
Royal Courts of Justice
Chichester Street
BELFAST

Judicial Communications Office

BT1 3JF

Telephone: 028 9072 5921

E-mail: Alison.Houston@courtsni.gov.uk