

THE PARACHUTE REGIMENTAL ASSOCIATION



AD UNUM OMNES



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REPLY TO THE NORTHERN IRELAND OFFICE CONSULTATION PAPER

GENERAL

1. During a recent meeting with Corps and Regimental Associations, the Northern Ireland Office (NIO) acknowledged that some veterans would be uncomfortable with the Consultation process and agreed that Corps and Regimental Associations could complete a consolidated reply on behalf of their memberships. The Parachute Regimental Association (PRA) has encouraged individual members to complete the Consultation form, but it has also polled its membership. This consolidated response reflects the views of the majority (97%) of respondents.

BACKGROUND AND CONTEXT

2. Nearly fifty years on from many of the key incidents of the Northern Ireland 'Troubles', the whole background to the deployment of troops is becoming increasingly blurred. A new narrative is emerging that treats incidents as if they were contemporary, rather than occurring against a backdrop of lethal sectarian violence and a complete breakdown of law and order, where split second, life or death decisions were often required by those involved. Below is a synopsis of the context at the time.

3. On 12th August 1969, after a year of increasing tension, the annual march of the Londonderry Apprentice Boys precipitated a full-scale sectarian confrontation, which became known as the 'Battle of the Bogside'. The two communities fought a pitched battle with rocks, and petrol bombs were thrown at the Police, many of whom were badly injured. The next day, violence spread across the Province; a Belfast Police station was attacked by a mob with petrol bombs; gunshots were traded between the two communities; the Police were shot at and attacked with grenades. More violence followed, eight people were killed, over 100 treated for gunshot wounds and many burnt out of their homes. The Royal Ulster Constabulary (RUC) had lost control. Jack Lynch, the Prime Minister of the Republic called for the deployment of a UN Peacekeeping Force; the Prime Minister of Northern Ireland, James Chichester-Clarke,

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requested British troops to restore order and the Westminster Government ordered them onto the streets on 14th August 1969, effectively to replace the RUC and re-establish the rule of law. This 'limited' initial assistance became the longest enduring operation in British military history (Operation BANNER). During 'the Troubles', more than 3,500 people were killed. Statistics differ slightly as to which organisations were responsible for these deaths, but generally it is acknowledged that Republican organisations were responsible for about 60% of the deaths, Loyalists for 30% and the Security Forces for 10% (as a result of counter-terrorist duties in the Province).

4. The Parachute Regiment was first deployed to Northern Ireland in October 1969, when 1 PARA conducted its initial tour in the Shankill Road and Falls Road, Belfast. The Regiment was to complete 41 operational tours between 1969 and 2004, five of which were two-year residential tours. During this period, the Regiment lost a total of 52 men killed, 16 in one attack by the Provisional Irish Republican Army (PIRA) in 1979 at Warrenpoint, near Newry. In addition, during those 35 years, many members of the Regiment were wounded and suffered life-changing injuries; some veterans still bear the physical and psychological scars from their service in the Province. In all, the three regular Battalions of the Parachute Regiment spent almost 25 years in the Province, deploying some 26,650 soldiers. Members of the Regiment were awarded 40 gallantry medals, 180 other honours and commendations and 60 Mentions in Despatches (MID).

5. The three battalions of The Parachute Regiment conducted seven tours in the key period between August 1969 and Operation MOTORMAN in November 1972, more than any other regiment. During this period, 1 PARA served 28 of these 39 months on operational duty in the Province.

6. **Training.** Training for units deploying to Northern Ireland in this early period of Operation BANNER was rudimentary and did not fully prepare soldiers for the realities of the situation in which they found themselves. Furthermore, it was a unit responsibility, based primarily on lessons learned on peace-keeping and counter terrorism operations during colonial withdrawal. Pre-1972, Headquarters Northern Ireland did provide some briefings to incoming units and the Army did start to revise and adapt tactical doctrine; however, overall, training for these early operational deployments was inadequate. It was not until March 1972 that the Army formed the Northern Ireland Training and Advisory Team (NITAT) to provide mandatory, centralised pre-deployment training to all units, based on lessons from within the Province and fed by a process that collected the latest experience from returning units. NITAT courses were also tailored towards understanding individual locations and communities and dealt with subjects as wide ranging as search, intelligence, photography and dog handling. This produced a step-change in pre-deployment training.

7. **The 'Yellow Card'.** The 'Yellow Card', issued to every soldier deployed to Northern Ireland, contained the 'Rules of Engagement' – when he was permitted to open fire. 'Yellow Card' training initially rested with the unit, but it was to become a feature of NITAT, where it was eventually built into exercises expressly designed to test understanding of it. The 'Yellow Card' did not provide protection from the law, rather it was designed to ensure that soldiers were aware of their responsibilities under the law and that they were subject to it. The 'Yellow Card' was first revised in November 1971 to reflect changes in the Army's understanding and interpretation of when soldiers could open fire. It evolved over time and changed five times over the duration of Operation BANNER to reflect an improving environment. The need for the 'Yellow Card' was symptomatic of the context in which soldiers were operating. But ultimately, the 'Yellow Card' could not cover all eventualities; the final judgement lay with the soldier who was called upon to act in unique circumstances; a level of violence which had not prevailed anywhere else in the United Kingdom and so had not been either experienced or wholly catered for.

OVERALL VIEW OF THE CONSULTATION DOCUMENT

8. The PRA agrees with the conclusion drawn by the NIO in the Consultation Document that *'the current system is not working well for anyone'*. It also agrees wholeheartedly with the

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House of Commons Defence Committee's report, which concludes that the overall process of these investigations has been '*deeply unsatisfactory*', has '*delivered a vicious cycle of investigation and re-investigation*' that has failed both our veterans and the families of those who died and that '*it was morally indefensible for former Service personnel to be caught in limbo with the threat of investigation hanging over them*'.

9. The PRA accepts that the Armed Forces must operate within the law; indeed, soldiers were deployed on the streets of Northern Ireland by the British Government to reinforce and re-establish it. It is axiomatic that suspected breaches of the law must be investigated properly and appropriate action taken. Such investigations must be thorough and completed at the earliest opportunity. However, the Association has grave reservations about the efficacy of any such investigation that takes place decades after the event itself, especially when many of the participants are no longer alive and whilst many others remain unaccountable.

10. The overall reaction of Regimental veterans to the Stormont House Agreement (SHA) is positive. It is considered a step in the right direction. A process that promises to bring closure to these legacy issues is much-needed. The Regiment would welcome investigations into the deaths of the 52 paratroopers killed during Operation BANNER; those soldiers and their next of kin are its own victims. However, the success of the SHA will depend on how fair it is and how fair it is seen to be. It will require sound leadership, appropriate resourcing and above all, the goodwill of all parties. The Association does not believe that these pre-requisites are currently in place. The prospect of soldiers being prosecuted is likely to be highly inflammatory to the Next of Kin of our dead, our wounded and their families.

11. The Association is also concerned that veterans are increasingly being treated simply as individuals who were party to some of the deaths in Northern Ireland. They were not. Unlike members of paramilitary organisations who were there of their own volition, Crown Forces found themselves there at the behest of the British Government of the day. It was the Government that sent them; the Government of Northern Ireland that introduced Internment and used the military as the agent to execute it and policies of both Governments that determined much of what subsequently occurred. The British Government has a vicarious liability for the acts of its agents and it must play its full part both in providing the necessary legal and welfare support to them and in supporting them tell their story. Failure to do so would be both a dereliction of duty and would hamper the emergence of the full picture. It would also be at odds with the Armed Forces Covenant, with its emphasis on the fair treatment of Service personnel and veterans.

HISTORICAL INVESTIGATIONS UNIT (HIU)

12. The Government is fully committed by law to ensure that any death is subject of an Article 2 (of the Human Rights Act) compliant investigation. The PRA is in favour of a dedicated unit to complete the outstanding investigations quickly and efficiently. However, the Association has the following reservations about what is being proposed:

a. **Practicality.** The new framework requires the HIU to investigate the 1,700 outstanding cases in a 5-year period, with enhanced, but still limited resources. The experience of the Saville Inquiry, which took twelve years to complete and cost £197M, suggests that this is unlikely to be achievable. This in turn could encourage it to select particular cases for investigation – leading to the dangers identified in (c) below. Furthermore, at the end of the 5-year period, it is unclear whether the 'slate would be wiped clean' or it would become a rolling 5-year period, effectively making this process open-ended.

b. **Context.** There is a very real danger that the context in which incidents took place at the height of 'the Troubles' has been lost and, in some cases, deliberately obscured. When Internment was introduced in 1971, it was accompanied by a statement from the then Prime Minister of Northern Ireland that '*quite simply we are at war with the terrorists*'. This is the environment in which soldiers were called upon to act at the time; they were operating amid a burgeoning spiral of violence, in which they did their level best to

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maintain law and order, operating within the law, but against an unaccountable and indiscriminate adversary, who played by no rules at all. It is essential that the actions of the soldier serving in Northern Ireland at that time are judged in this light and against the wider context of the available training, relentless deployments and preparedness referred to in paragraphs 2-7 above.

c. **Even-Handedness.** Despite reassurance that cases will be dealt with in a chronological order, it continues to be a concern that investigations will focus unduly on cases involving the Security Forces, because they maintained detailed records of all their activities. There is a record of every soldier who served in the Province. There are patrol reports, log books and statements dealing with all major incidents. This is in stark contrast to the majority of cases deserving investigation, which concern terrorist incidents. It is clear that the terrorists of the time kept no such records, openly intimidated witnesses and in many cases, remain in a position to do so. There is thus a real concern that investigations will not be balanced and there is no confidence in the current procedures. Many veterans feel that they are being made scapegoats, as a matter of political expediency. Meanwhile, the statistics for deaths during 'the Troubles' tell their own story and it remains a major concern that undue attention is being focussed on the Armed Forces as opposed to those responsible for the vast majority of deaths. The NIO should publish quarterly tables (retrospectively from 1st September 2018) of how many cases are currently being investigated against Terrorists (Republican and Loyalist) and the Security Forces (Police and Armed Forces). Willingness to do this will play a significant role in demonstrating transparency and even-handedness.

d. **Publicity.** Whilst the SHA is a political accord designed to bring ultimate closure, the processes that support it must not be politicised; they must be fair and even-handed if they are to be credible and have utility. The PRA does not in any way impugn legitimate legal processes, but these are already taking place against a backdrop of partisan and one-sided comment (for example, media and internet commentary on deaths in the Ballymurphy Estate in August 1971, even as an inquest is being conducted). Whilst it may not always be possible to prevent this, it is another reason for concern amongst veterans as to whether their voices will be heard and whether the process is fair.

e. **Security of Information.** Security of any information provided to the legal process in good faith and its possible misuse remains a constant threat to veteran involvement. The Consultation preamble highlights that it cannot promise that information in relation to the Consultation process is secure. This is both inadequate and unacceptable. Members of the British Army – who were deployed to Northern Ireland by the then Government and were conducting operations on behalf of that Government – deserve to be treated better. If guarantees of security cannot be given, it is very likely that many of the veterans will not wish to participate in the process.

f. **Endless Process.** Many cases under investigation or due for investigation have already been investigated extensively; some more than once. It is simply unjust to keep on subjecting the same personnel to further investigations – as well as being potentially at odds with Article 6 of the Human Rights Act, which requires any hearings to take place 'within a reasonable time'. Furthermore, it begins to make investigations look more political in nature, in that our Servicemen are being pursued in the hope of achieving a different result. Every second that passes raises more questions about the quality of the evidence available and makes finding the truth less, not more likely. It is time to call a halt: the passage of time, combined with the social and cultural changes in society, make the ability to conduct safe and fair prosecutions extremely dubious.

g. **Costs and Support.** Veterans require reassurance that they will be fully supported. The Association believes that they should receive the best legal and welfare support available, paid for by the Government, with the freedom for veterans to choose their own legal counsel, if required.

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h. **Proceedings Held in Northern Ireland.** The Association is extremely concerned that veterans will be forced to travel to Northern Ireland to attend inquests and trials with its associated threats of intimidation and to their physical security. They are also concerned that any trial would likely be held in a 'Diplock-like court' (i.e. no jury). Veterans consider this to be a manifestly unfair process.

i. **Giving Evidence - The Witness Box.** The witness box is a tough place; it is frequently adversarial and very stressful. For most people, the older they get, the more difficult it becomes. It is also questionable whether subjecting 60-80 year olds to this process is 'proportionate' or indeed sensible.

13. **Truth and Reconciliation Process.** Given the above concerns, it is the view of the PRA that a truth and reconciliation process, similar to that conducted in South Africa in the late 1990s, would be a more effective and less stressful means of establishing the truth, supported by a legally-binding agreement not to prosecute. This would allow individuals to speak freely about their experiences without fear or favour. Investigations which lead to prosecutions are considered to be incompatible with a process that seeks to establish the truth and closure for all victims.

INDEPENDENT COMMISSION ON INFORMATION RETRIEVAL (ICIR)

14. This institution is focussed on providing information to families and provides a degree of cover for witnesses. Statements by witnesses will not be admissible in court, unless the HIU acquires information from a different source which passes the evidential test. This is the same reassurance which was provided to the witnesses in the Saville Inquiry and is causing the Director of Public Prosecutions (DPP) some difficulty, as he decides whether to honour it or not. There must be absolute clarity whether such statements are inadmissible in court or not. However, if the HIU were not investigating with a view to potential prosecution, it should be combined with ICIR.

ORAL HISTORY ARCHIVE (OHA)

15. Oral history is much easier to collect from those living in the Province, rather than from members of the Armed Forces. Communities in Northern Ireland have remained close; individuals have very often not moved location and political sensitivities have remained intact. That is not so with the Armed Forces; veterans are by their nature dispersed all over the country, making individual memories more difficult to collect; indeed, establishing the collective memories is almost impossible. Care needs to be taken that oral history is not one-sided and that the narrative properly reflects the experiences of all participants, civilian and military.

IMPLEMENTATION AND RECONCILIATION GROUP (IRG)

16. If this group is to write an academic report on the themes, employing an evidence-base established by the work of the other legacy institutions, the criteria against which it is reporting should be decided in advance.

CONCLUSION

17. The framework suggested by the SHA is one of several ways in which the current system could be improved. The Parachute Regimental Association is generally in favour of the new institutions – as outlined in the Consultation Document. However, the Association remains deeply opposed to investigations that seek further prosecutions, believing that it remains *'morally indefensible for former Service personnel to be caught in limbo with the threat of investigation hanging over them'* after such passage of time. It is also manifestly incompatible with the stated aim of attempting to establish the truth and closure for all victims. A truth and reconciliation process that brings closure to the past would be a more effective method to establish the truth, supported by a legally-binding agreement not to prosecute. Finally, today's Government has a duty to look after all veterans who were deployed to Northern Ireland during Op BANNER; they were deployed there at the behest of the then Government which was party

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to the dispute. Today's Government must accept its moral responsibility to support and assist all former soldiers caught up in the investigative processes.

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Secretary

On Behalf of
Executive Committee
The Parachute Regimental Association