

## ANTI-TERRORIST RESPONSES IN CRISIS SITUATIONS

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(The research does not represent the views of the PSNI)

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## 1.0 PREAMBLE

This narrative examines the Royal Ulster Constabulary's (RUC)<sup>1</sup> Anti-Terrorism (AT) efforts in combating a violent *Republican* insurgency by the Provisional Irish Republican Army (PIRA)<sup>2</sup> in Northern Ireland (1969-1998). Of particular interest is the area of Intelligence-led policing. To a lesser extent, the Sunni insurgency by Al-Qaeda in Iraq (AQI) (2004 – present) and the US-led response is employed as a means of providing contrast and context. Isolated references to other conflicts are also included. The aim is to reflect on State response in a crisis situation [for the purpose of the narrative, crisis situation has been loosely interpreted as a terrorist initiated situation]. Of note, the equally abhorrent aberration of Loyalist terrorism is only fleetingly referred to as a consequence of having narrowed the focus towards PIRA.

The work does not seek to study the typology, methodology or ideology of terrorism. However, as many definitions exist of what *terrorism* is, to add clarity, the author is drawn to his first introduction to the word as a teenage Constable, 'the use of violence for political ends'. The terms – *terrorist*, *guerrilla* and *insurgent* - regularly interleave in the following pages, all three relate to terrorist violence, albeit in different settings and to varying extents. For most Western nations terrorist incidents are an infrequent occurrence, whereas countries enduring insurgency suffer a regularity of hostilities. The work gravitates heavily towards insurgency-inspired conflict in nations such as NI, Iraq or Afghanistan, as opposed to the normalcy of somewhere like England, Germany or the USA. Consequently, in defining Anti-Terrorism, one is minded of it being a catch-all label that can cover a range of measures resistant to terrorism in all nations. Counter-Terrorism (CT) and Counter-Insurgency (COIN) are therefore used under the generic Anti-Terrorism rubric. To clarify the AT descriptor, in the context of this draft, Anti-Terrorism is defined as *Law Enforcement's opposition to unlawful violence used for political ends*. It is also useful to briefly define several models later referred to: Criminal Justice Model – Civil Policing; War Model – military primacy; and Hybrid Model – paramilitary policing.

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<sup>1</sup> The RUC was a locally recruited volunteer force of approximately 13,000 Officers, Patten (1999, 75).

<sup>2</sup> Hereafter, the author refers to *PIRA* and not *the PIRA*, in keeping with practitioner language.

The author offers five sections in the narrative. Section One: Preamble; precedes a collection of separate phases identifying several crises in the evolution of the RUC's Anti-Terrorism Organisation – Section Two: Crisis – Emerging Threat & Overreaction; Section Three: Crisis – Elite PIRA Units & Tough Law; and Section Four: Delayed Crisis – Police Doctrine. A closing section (Section Five) summarises the work.

## 2.0 CRISIS – Emerging threat & Overreaction

*'While nothing is easier than to denounce the evil doer, nothing is more difficult than to understand him'.* Fyodor Mikhailovich Dostoevsky<sup>3</sup>

### 2.01 CAUSES OF CONFLICT

Terrorist conflict, particularly a terrorist insurgency, is the most complex of problems. It is unlikely for anyone to tell the story of the Northern Ireland (NI) insurgency, or indeed any terrorist conflict, in a way that will command general agreement. Such discourse, and so much of the gulf in understanding that plagues AT efforts has to do with the wilful disregard for the others point of view. As an example, what Israelis call the war of Independence, Palestinians call the *Nak ba* or catastrophe. Israel labelled the attacks on Jewish neighbourhoods in Jerusalem and Jaffa in 1920 as riots; Palestinians view it as popular uprisings! The difficulty is not in the nature of events but in the way we perceive them. Taleb (2008, 59) outlines that 'this confirmation problem pervades our modern life, since most conflicts at their root have the following mental bias: when Arabs and Israelis watch news reports they see different stories in the same succession of events...Once your mind is inhabited with a certain view of the world, you will tend to only see instances proving you to be right. Paradoxically, the more information you have, the more justified you will feel in your views'.

A study of both PIRA and AQL reveals a timeline of historic grievances dating back centuries that feed into their latest phase of the struggle. Alonso (2007, 59) highlights this in his research, that for Republicans, the Northern Ireland

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<sup>3</sup> Hudson (1999), Preface.

conflict was 'merely a continuation of the 1919 war of Independence'<sup>4</sup>. Indeed, Cromwell (1640s) and the famine (1840s) are other archived incidents that incite Irish Republican hatred towards the British. Similarly, AQI recount the Crusades of the Holy lands in the 11<sup>th</sup> Century and the more modern Palestinian/Israeli dimension. It is critical to identify that the *hearts and minds* element is core to any nascent AT plan - looking at it from the other guy's point of view as opposed to your own. This can only be achieved by studying one's opponent and their support base.

## 2.02 A COMPLEX PROBLEM - TERRORISM

It is much easier and faster to destroy than to build. In 1969 Policing in Northern Ireland had no answer to an illegal terrorist insurgency conducted by the Provisional IRA that threatened to overthrow democratic rule. PIRA violence served to purposely distort religious differences and provoked a sectarian conflict, a point amplified by the new term *ethnic cleansing* being introduced to the world following PIRA attacks on Protestant families along the Irish border. The destructive impact of the internecine violence that emerged produced a general public need to contain it. PIRA's aim was to control the population and create fear and a corollary of silence, dual conditions, which prevented the wider population from helping the police. The criminal justice system was identified as a weakness to be exploited. They legitimised law enforcement as targets for murder, effectively distancing them from the community by forcing them into fortified bases and patrolling in the constant expectation of being attacked. AQI were later to follow the same template so effectively mapped out for them by PIRA.

Terrorism, particularly insurgency, is the ultimate complex problem. There are no simple or perfect solutions. It is *intransparent* and *dynamic*. Your opponent is mostly unseen, even when he strikes. To unlock it, thereby requires an opaque and highly mobile key, both features of Intelligence-led policing. This may seem an obvious observation, matching like with like, however; following the fatal shooting of Jean Charles de Menezes (22<sup>nd</sup> July 2005) by the London

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<sup>4</sup> Abbott (2000, 12-13) documents that 700 RIC [RUC succeeded the RIC] officers were killed and over 1000 wounded by the IRA during the Irish War of Independence (1919-1921).

Metropolitan Police, UK Police Chief Barbara Wilding<sup>5</sup> disclosed that the AT policy had *not* been drafted to cater for a fast moving and dynamic threat. The disclosure underlines the criticality of the planning stage. To be fair to Wilding, the randomness of terrorism is notoriously difficult to predict. Similarly, the bias in UK policing towards transparency and accountability had most probably injected those two ingredients into dominating AT policy initiatives. This is not to say they are not needed, rather, fixation on their appeal looks to have sidelined the practicalities of actually performing the task.

### 3.0 CRISIS - ELITE PIRA UNITS & TOUGH LAW

*It takes a diamond to cut a diamond.*

#### 3.01 DIVIDED SUPPORT

The RUC in 1969 was intelligence-blind to forecasting the mass civil unrest, bombings and shootings that unfolded. Their inability necessitated the British Army taking the Law Enforcement-lead in a US style War Model. Whilst it was high impact and showed tough action, it also proved counter-productive and nigh impossible to regulate. The intelligence product is also less reliable than that of a Criminal Justice model. Selective internment in Northern Ireland in the early 70s highlights the failings of unreliable intelligence and served to alienate most of the Catholic minority, whilst conversely bolstering support from the Protestant majority. The RUC was strongly hailed by Unionist (Protestant) politicians as *their* police force. This fostered suspicion of policing bias in the Catholic community.

In the absence of political dialogue, it positioned the police as a political football that was to be kicked for the next 30 years. Around this early period of PIRA's insurgency, *partisan advocacy* truly took grip. In Northern Ireland, by interning innocent Catholics, PIRA was alerted to the State's inadequate intelligence coverage and buoyed by this deficiency. Similarly, the religious imbalance and

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<sup>5</sup>

See  
<[http://huss.exeter.ac.uk/politics/research/readingroom/Alternatives%20NVW%20June%2007.p  
df](http://huss.exeter.ac.uk/politics/research/readingroom/Alternatives%20NVW%20June%2007.pdf)>

injustice of the tactic resonated strongly within the Catholic community ensuring they withheld support of policing. Whilst it is not strictly correct to categorise every Protestant and Catholic along these tribal allegiances (the categorisation would be more accurate in the working class rather than the middle class); it nonetheless is a useful gauge of community support for the RUC at that time.

As can be seen, partisan advocacy kicked-in very quickly. A similar transition occurred in Iraq when the Shia majority backed the Coalition Forces. This triggered an intense Sunni insurgency by AQI. The Sunni minority, just like the Catholic minority, felt disenfranchised and detached from government functions. This resulted in the undecided moderate veering more towards the aims of insurgents - PIRA fought for *Brits out and a United Ireland*, AQI fights for *Coalition Forces to leave all Muslim lands and a restoration of the Sunni Caliphate*.

When countenancing its operational bankruptcy as an AT response, one must be alarmed at the concept being repeated and globalised to such catastrophic affect at Quantamano Bay. Where Northern Irish Catholics suffered injustice during internment, so is the case with Muslims during Quantamano Bay. Both internment and Quantamano, in the minds of those Catholics or Sunni who would normally support law and Order, confirmed any negative doubts they secretly harboured about State bias against them. Recovering from these setbacks entails a more accurate AT approach, one that is *seen* to deal with the *bad guys* in a fairer manner if law enforcement is to increase support for their cause and reduce it for the aggressor.

Essentially, both internment and Quantamano were/are catastrophic failures and a catalyst for partisan advocacy. They have served to aggravate the situation and stir existing religious tensions into sectarian hatred. Where a considered response was required, a testosterone-induced response was enacted. It is hard to find a better Recruiting Sergeant for PIRA than Internment, and even harder to find a commentator who remotely hailed it as effective. The British response to the new crisis of terrorism created an even deeper crisis with internment.

### 3.02 IDENTIFIED SOLUTION - HYBRID MODEL

In opposing terrorism, there are two recognised choices - extreme brutality or extreme patience. Any other method risks being too harsh to win the support of the population, but not harsh enough to cow terrorists into submission. The intensity of the Northern Ireland conflict created conditions that fuelled the creation of a new *Hybrid Model* as the preferred AT answer - a halfway house between the police and military, peace and war.

In effect, this morphed the RUC into a Paramilitary Police Force. Carrying rifles, sub-machine guns, pistols, wearing body armour, patrolling in armoured vehicles, foot patrols in large numbers, working from bomb proof shelters and being transported by helicopter were not the domain of normal policing. The Hybrid Model established police primacy. Innovatively, tougher crossover elements from the War Model were introduced as resilience provision. The greatest affect was to be in the covert arena.

### 3.03 TIP OF THE SPEAR

To counter the terrorist's goal for victory, Law enforcement needs to be *intelligence-led* of which well placed Informants are core. Their effectiveness destroys a terrorist body from within. Yet intelligence on its own is not enough, it requires a body to coordinate it and executive arms to prosecute actionable outcomes. For the RUC, this manifested in establishing a totally new concept, a symbiotic covert Intelligence-led entity evolved:

- SB as the main Intelligence gatherers for National Security, a unique situation in the UK where National Security is normally an Mi5 remit
- Force Research Unit (FRU), military intelligence. Supplement to SB
- Tasking and Coordinating Group (TCG) as the command and control unit who managed actionable outcomes, including Technical Expertise
- E4a as the RUC's indigenous surveillance
- DET (short for Detachment) as the military exogenous surveillance

- RUC's Special Support Unit<sup>6</sup> (SSU) – Police armed response
- Special Air Service (SAS), military armed response

Essentially, this coterie of Specialism's was the tip of the AT spear. It was the *tough law* needed that was to eventually subdue PIRA, forcing them to the negotiating table. The Police units (SB, E4a, SSU and TCG) were compartmentalised within the self-contained silo that was E Department. All actionable intelligence was filtered through the TCG hub. Police had primacy on all operations, whether police or military.

Whilst it geared towards actionable outcomes, it also serviced uniform Police Chiefs on general and individual threats, searches and public order situations. The guidance was based on an assessment of current intelligence. It advised local police and military commanders on terrorist suspects and how and where to best deploy their resources, with the aim of protecting life. At the same time, E Department also guided on Criminal Investigations. However, the criticism on this relationship regards investigators claiming intelligence that *could* have led to successful prosecutions was never disseminated. Reviewing this aspect is certainly an area worthy of further development. However, during conflict, maintaining secrets has been historically recognised as a priority that trumps sharing them out at every opportunity, if their full potential is to be realised. Such an example was the judicious use of intelligence produced by the Enigma code breaking operation during WW2.

Sir Hugh Annesley (Chief Constable of the RUC 1989 - 1996) reported to the Policing Board that four out of five terrorist operations in Northern Ireland were prevented. This 80% success rate was largely driven by E Department. The positive statistic defined the capability of the AT process in attaining an acceptable level of violence. The reduction in violence was an essential milestone in achieving peace.

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<sup>6</sup> Later renamed the Headquarters Mobile Support Unit (HMSU) following criticism by John Stalker in the *Shoot to Kill* inquiry (1980s). Journalist Peter Taylor (1987) wrote, *Stalker*, regarded as a jaundiced account when considering Martin McCauley's (PIRA) later conviction in Colombia (2001) for training FARC guerrillas. McCauley made claims of innocence in both the *shoot to kill* inquiry and Colombia.



E Department was very much the senior partner in the overall RUC family and Special Branch was its main figure. Protecting secrets, achieving success and exerting such dominance inevitably leads to professional jealousy. Post-conflict, this led to criticism by senior non-E Department RUC personnel, claiming it was a 'force within a force'<sup>7</sup>. The post-conflict stage has attracted a disproportionate amount of resentment and hindsight-type accusations that was never the case during the conflict. Concomitantly, E Department degradation of PIRA has had Republicans call foul on tactics used against them. The endgame of terrorist appeasement is in itself a voluminous subject. Suffice to say, a coalescence of counter-factual narratives with an anti-Special Branch leitmotif has been a marked feature of the post-conflict process.

### 3.04 MISCONCEPTIONS

It should be noted that Northern Ireland's Intelligence-led AT concept has its detractors. One such critic, Mary O'Rawe<sup>8</sup>, best distils criticism regarding *Shoot to Kill* and *Collusion* from oversight reports (Police Ombudsman of Northern Ireland, PONI) and various inquiries (Stephens, Corry, Stalker) in her publication; *Accountable Intelligence and Intelligence Accountability*. O'Rawe castigates E Dept., warning that their 'modus operandi delegitimises the export of intelligence driven policing' to other nations. O'Rawe's tendentious export is also in harmony with other like-minded NI academics, such as Ellison (2000), who similarly refutes any sort of achievement by the RUC's intelligence-led efforts. After numerous inquiries, at huge public cost, no individual from E Dept. or from the SAS, DET or FRU has been criminally prosecuted amongst a cascade of post-conflict allegations. Not to undermine their contribution to the debate, these academic tomes are largely theoretical liberalist views consumed with a preponderance to blame anyone other than the terrorist.

The most basic area that O'Rawe, Ellison and others overlook is the *reasonable man test* represented by Thane Rosenbaum (2004) in his book, *The Myth of Moral Justice*. They predicate their criticism of others in the belief they would themselves have rescued someone in danger, when actually, the opposite is

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<sup>7</sup> Patten (1999, 72).

<sup>8</sup> See < [http://works.bepress.com/mary\\_orawe/1/](http://works.bepress.com/mary_orawe/1/)>

true. Their infatuation with strict adherence to guidelines belies their practical inexperience. This outlook is exemplified by two Community Police Support Officers (PCSOs) who stood by while a 10-year-old boy drowned in a pond in Wigan, England. Senior Police Officers said they acted correctly<sup>9</sup>. The boy, Jordon Lyon, died despite a fully qualified Police Sergeant diving into the water in an attempt to rescue him.

His force made it clear that the Sergeant was acting against policy and acted on his own volition. Rosenbaum articulates that a reasonable man is *not* prone to step in and rescue a stranger; a reasonable man will flee, withdraw or watch a stranger drown as many instances prove. Yet policing legislates for what is reasonable, however, doing what is right is not always understood by a reasonable man. Rescue is largely an irrational act, which sees man at his most humanly vulnerable. Unconventional and non-conformist behaviour has a way of being misapplied and misunderstood by a judicial process, and it is this fear of breaking guidelines that weighs heavily in any decision to intervene.

In a terrorism context, the media focus on sensationalism and failure, ably assisted by critics who offer simple solutions to a complex problem. Retrospective inquiries in Northern Ireland do not concern the intangible component of who the Police saved, but those it failed to save. Taleb (2008, 112) explains the negative context by relating to a 'drug that can save many lives from a potentially dangerous ailment, but runs the risk of killing a few, with a net benefit to society. Would a Doctor prescribe it? He has no incentive to do so. The Lawyers of the person hurt by the side effects will go after the Doctor like attack dogs, while the lives saved by the drugs might not be accounted for anything. A life saved is a statistic; a person hurt is an anecdote. Statistics are invisible, anecdotes are salient'. Nobody can put in their best performance unless they drive out fear. Fear of looking over your shoulder, fear of being misjudged and fear of being litigated against are paralysing mindsets. Such fear will have us all watching from the bank as the Jordan Lyon's of this world drown. Terrorism is of irreducible complexity. The danger of treating it as a

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<sup>9</sup> See < [http://news.bbc.co.uk/1/hi/uk\\_politics/7643200.stm](http://news.bbc.co.uk/1/hi/uk_politics/7643200.stm)>

simple problem with static and transparent characters, is that it leaves us waiting until everyone is blind before we find a cure?

With this in mind, perhaps law enforcement needs to go back to basics? Perhaps it needs to reclaim human rights from the liberalist left by studying their fundamental values and their role in modern conflict? Surely it needs to ditch the overload in politically correct doctrine that has suffocated the basic tenets of good governance?

### **3.05 TOUGH LAW – LOUGHGALL**

To scope-out opposed viewpoints further. Ellison in his book cites an incident in Loughgall, where an elite unit of 8 PIRA activists were shot dead whilst attacking a rural RUC Station. His rationale in this instance was that it did not dent PIRA capability, as a few years later PIRA destroyed the same Police Station with a VBIED (Vehicle Born Initiated Explosive Device). Ellison promotes the idea that if it had not been for Special Branch the conflict would have ended much earlier than it did. What Ellison critically missed, was the prestige and reverence this 8 man unit commanded within the PIRA psyche – they were the Bismarck of Hitler's fleet, Cornwallis's Army in Virginia, Napoleon's Imperial Guard at Waterloo. They had run amok throughout a Republican stronghold of North Armagh and East Tyrone, lauded as untouchables; they were a crisis that needed urgently resolved.

Prior to Loughgall this unit had calmly taken over another isolated RUC Station at Ballygawley, murdering two Police Officers in the process. They also took weapons from the bodies of the murdered RUC Constables before destroying the Station in a bomb blast. They wanted to repeat their Ballygawley success at Loughgall. Ellison did not recognise that both locations were limited opening Police Stations. This means they were not staffed from around 11pm to 9am. In the evening they were manned mostly by older part-time Police officers who during the day were school teachers, farmers or such like. During the conflict, part-time officers supplemented full time RUC officers by performing security-type duties. Quite a few were easy targets for PIRA to murder off duty, as was the case, and indeed this unit would have murdered many prior to their own demise. To digress slightly, in one such attack, a leading figure at Loughgall,

James Lynagh, was involved in a 12 man PIRA gang that shot dead two Protestants - Sir Norman Strong and his son, in 1981. Sir Norman was an 86 year old former politician and Military Cross winner from WW1. After shooting them dead, Lynagh and his cohorts burnt the house down over the bodies and had a running gun battle with Police whilst escaping across the border into Ireland.

Coming back to the Loughgall story. Like Ballygawley, it was attacked during their normal opening hours, even though it carried far less risk to leave a car bomb outside when it was closed and had no Police on duty. However, the ambition of this PIRA outfit was to escalate the scale and destructive nature of the conflict, making Northern Ireland ungovernable. Taking over an operational Police base, murdering everyone inside and then blowing it up was therefore central to their aim.

On the 8<sup>th</sup> May 1987 as a PIRA operation unfolded so too did an intelligence-led operation against them. The result was played out in the rolling hills of County Armagh. Shattering the village silence, the SAS shot dead 8 of PIRA's top Terrorists. There was one civilian casualty, and several SSU and SAS personnel injured. By their own actions and being armed with illegal weapons and a VBIED they posed a real and immediate threat to life. No SWAT-type Police unit could have achieved this success; it needed the expertise of military specialists. The Nazi's pocket battleship was at the bottom of the Atlantic, the Imperial Guard was broken, Cornwallis's Army was a prisoner of George Washington - PIRA's colours had been downed in equally humiliating circumstances. A defining moment, it signalled to PIRA that they could never achieve their aim militarily. Ellison failed to grasp the special type of person that stands up to a bully. He also missed the significance of the next, and last, attack on Loughgall being a token gesture, carried out when it was closed and unmanned.

This was E Department's tough law in the ascendancy and PIRA in decline. A recent release, *Gunsmoke and Mirrors: How the IRA dressed up Defeat as Victory*, by Henry McDonald (2008), confirms how tough law forced the IRA to change strategy in this period. McDonald articulates that it was the defeat of the

*armalite*<sup>10</sup> [Republican term for an M16 rifle] that forced PIRA to sue for peace. The game had shifted from an ill-prepared Law Enforcement response through a calamitous internment in the early 70s to one of surgical precision through intelligence-led policing in the mid 80s.

For many, Loughgall marked the beginning of the end. Outside of the tangible operational outcome, PIRA were now imploding in the paranoia of searching for intelligence leaks. This slowed down their military operations, highlighted organisational weakness to potential recruits and ensured a climate of distrust. It also was a massive morale boost for the RUC and British Army, graphically highlighting the quality of their specialists to the wider world. Unlike internment, Loughgall was discriminatory, which did not go unnoticed, in a positive sense, within the Catholic community. And of course, it also consolidated existing public support. These were all very healthy benefits for an AT structure to further exploit. Further SSU and SAS arrests, and several more mini-Loughgall's followed; evidence of E Department's increasing capability. Arrests were the norm. The prisons bulged with top Republican and Loyalist terrorists. Early prisoner release was to form a main PIRA demand in later peace talks. Tough law had created the conditions for a political settlement, and associate economic/social dividends, to take place.

### 3.06 LYNAGH & AL-ZARQAWI

If we take a moment to compare James Lynagh to Abu Musab al-Zarqawi. Lynagh was what US General David Petraeus<sup>11</sup> would describe as an *irreconcilable*. In Northern Ireland, PIRA personalities were categorised into *hawks* and *doves*, Lynagh was a leading hawk. Similarly, Al-Zarqawi was another irreconcilable, or hawk; an equally repulsive belligerent in AQI.

Consider the mechanics of how both met their end. As you recall, Lynagh was confronted on the ground by SAS troopers, his actions undoubtedly determined their defensive response – the use of force which is no more than absolutely

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<sup>10</sup> The iconography of the *armalite* originates from support of PIRA from the Irish Diaspora in the USA. This resulted in finance being raised for weapons, of which the M16 was the most prized.

<sup>11</sup> See <<http://www.whitehouse.gov/news/releases/2007/09/20070914.html>>

necessary in compliance with Article 2 ECHR: The Right to Life. Al-Zarqawi<sup>12</sup> on the other hand was *taken-out* (8<sup>th</sup> June 2006) by two F16 jets dropping two 500lb bombs and two guided missiles that resulted in three male and three female deaths, including Al-Zarqawi's wife and child. In contrast, Loughgall was a more precise strike with much less collateral damage, although Irish Republicans would claim that the unit could have been arrested? Having listed a previous attempt to arrest Lynagh in 1981 (Sir Norman Strong), this appears a partisan and disingenuous view. It also ignores the fact that the Lynagh/Al-Zarqawis' of this world must take responsibility for their own actions, a core point of many who argue that Human Rights are unfairly biased towards the aggressor. An issue exemplified by each family of the eight terrorists killed at Loughgall having received £10,000 compensation for procedural failings<sup>13</sup>. Brafman (2006, 142) in his book, *The Starfish and the Spider*, captures the strategy of taking out a Tony Soprano-type figure in a hierarchical organisation. The rationale being that 'Tony is in charge' and is considered the 'smartest and most capable' and therefore the least indispensable, which pretty much fitted the profile for Lynagh and Zarqawi. Indeed, no new *Tony* took over from Lynagh.

Suppose for a moment that Special Branch had gained no insight into Lynagh's gang and they had succeeded in attacking Loughgall, murdering several more Police Officers, and then going on to even more flamboyant attacks that resulted in greater loss of life over several more years. What if it was not until 1990 that an intelligence nugget against Lynagh of Loughgall quality was achieved, but it only pointed to him and his gang being held up at a location in the Louth Hills, just across the border in the Republic of Ireland. What are our options for such an iconic symbol of militant Republicanism and Britain's most wanted man? Could Britain have launched a missile strike into another sovereign nation as President-elect Obama encourages against Osama bin-Laden? Can the pre-emptive strike be argued as defensive action as the President-elect also posits? The temptation with a purely military approach is that it has a lower legal threshold and is prejudiced towards instant results. The

<sup>12</sup> See < [http://news.bbc.co.uk/1/hi/world/middle\\_east/3483089.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3483089.stm)>

<sup>13</sup> See <<http://www.echr.coe.int/Eng/Press/2001/May/N%20Ireland%20cases.htm>>. The UK was held to have violated Article 2 by a technical breach regarding procedural and not fact finding aspects.

downside is that it can create new problems from unintentional collateral impact. That said, it is an optional response; one that the prevailing circumstances and environment will heavily influence when making the call.

Who knows, had Lynagh and his cohort hawks not have been stopped in 1987, and Northern Ireland breached its tipping point, an air strike or *Eichmanesque* kidnap may well have been a viable option. The intensity of the conflict, such as in Iraq and Afghanistan, determines a greater risk appetite and risk capacity. In all probability, in these nations, a Hybrid Model that delivers tough policing could only occur on the back of the *hard lifting* done by the military in a War Model, which renders a more pliable environment. Staging the transition from one to the other is undoubtedly a crucial and necessary shift. Done too early and newly introduced fragile Police structures may collapse, too late and public support may wane through prolonged exposure to the war model. To make it *take* appears dependent on military support.

### 3.07 TOUGH COP

What would Ellison, O’Rawe and other like critics of *tough law* think of Malalai Kakar<sup>14</sup>? A no-nonsense female Police Chief in Kandahar. Kakar famously shot dead three assassins in a shootout and was a tough talking and tough acting cop. She did not hesitate in dispensing instant justice and once beat a man for chaining up his wife. Legitimised as a target by the Taliban, just as PIRA did with the RUC, Kakar and her 18 year old son were shot dead by the Taliban in October 2008. If the local Police can’t survive, particularly Officer’s like Kakar, who dispenses the law? Unfortunately for Afghanistan, a tough cop like Kakar had no tough law to protect her. What human rights group will champion the violation of her rights?

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<sup>14</sup> The Sunday Times News Review Obituaries, 19<sup>th</sup> October 2008.

## **4.0 DELAYED CRISIS – Lack of Guidelines**

### **4.01 GUIDELINES**

Glenny (2008) in his book, *McMafia: Crime without Frontiers*, outlines the extraordinary difficulty in criminally prosecuting organised crime. The difficulty in a terrorist setting is even more problematic, as highlighted by the Old Bailey acquittal in 1991 of PIRA activist Kevin Barry O'Donnell. O'Donnell was caught in England by police who discovered two Kalashnikovs in the rear of the car he was driving. O'Donnell was a final year University student who had earlier come under police attention in the 1989 bombing of a British Army barracks in England. In an E Department operation in 1992 O'Donnell was shot dead by the SAS along with three other terrorists after having attacked an RUC base with an assortment of light and heavy machine guns. With O'Donnell in mind, one has to wonder had Lynagh been arrested at Loughgall, would he also have been acquitted?

### **4.02 HUMAN RIGHTS**

In recognising the inadequacy of the criminal justice system in dealing with terrorism, Emergency Legislation had the UK derogate under Article 15 of the European Convention on Human Rights 1950. Article 15: Derogation in time of emergency relates what can be done 'in times of war or other public emergency threatening the life of a nation...' It allows a State to derogate out of certain aspects, such as freedom of liberty (arrest and detention) and Fair Trial (Non-Jury Diplock Courts). Derogation does not include: Article 2 Life; Article 3 Torture; Article 4 Slavery; or Article 7 No punishment without Law. Even with additional emergency powers, out of 302<sup>15</sup> RUC officers murdered in the conflict, 211 cases remain unsolved. This 30% crime clearance rate in criminal convictions indicates the difficulty of securing prosecutions to western benchmarks during an insurgency.

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<sup>15</sup> Source - Liam Clarke (21 January 2007, 16), *The Sunday Times*.



#### 4.03 POLICE DOCTRINE

Beneath Human Rights law is Criminal Law, and beneath that are police guidelines. This is an area of modernity that appears to attract disproportionate attention to the detriment of the legal instruments above it.

Drilling-down into this doctrinal layer, a former Assistant Chief Constable (ACC)<sup>16</sup> of E Department related that he had made representations to Prime Minister Thatcher after the PM had enquired; “What does Special Branch need”. The former ACC represented that “SB needed guidelines”, cautioning that his officer’s are legally unprotected and exposed to criticism without them. At that time it is widely recognised that SB had successfully infiltrated PIRA through the use of informants. He went on to outline that existing National guidelines concerning the use and conduct of running informants– core to *tough law* intelligence-led initiatives – had very little relevancy for Northern Ireland’s conflict, as they were drafted for ordinary crime, and not even organised crime. Thatcher had directed that the Association of Chief Police Officers (ACPO) address this policy gap in National guidelines so that it catered for the unique conditions in Northern Ireland. Nothing was ever drafted.

ACPO in this era could be accurately described as an organisation dominated by UK Police Chiefs with negligible experience or knowledge of policing a conflict, and for whom NI was a remote and alien environment. It would therefore not have been an item high on their agenda. As forewarned, the doctrinal void manifested in a delayed crisis post-conflict, when National guidelines were used as a metrics to criticise SB’s non-compliance. Having failed to draft relevant guidelines, as the former ACC urged, it is ironic that it was officers associated with ACPO who were to later criticise this very point retrospectively; albeit that it was not the same officers involved.

What critics appear to miss, and what the former ACC had cause to highlight, is that in conflict, as Hennessy (2007, 154) corroborates, ‘it is hard to avoid the taint of having colluded in criminal acts when any well placed agents in a terrorist organisation are likely to have engaged in criminal activity or even have

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<sup>16</sup> Interview conducted in NI, summer 2008.

blood on their hands...There are rules needed on how countries go about collecting intelligence, but in some respects, these need to be relaxed in the interests of our own security'. Drafting an *intelligent* set of guidelines for Intelligence, however difficult, therefore appears a critical accountability measure if such a crisis in future AT efforts is to be avoided or reduced. Otherwise, having reflected on the Northern Ireland experience, past actions in conflict will be judged by current peacetime rules.

## 5.0 SUMMARY

Northern Ireland and Palestine were once mentioned in the same breath as intractable problems. The preceding narrative has attempted to relate the *ground-truth* of how one was solved. Each terrorist conflict has a unique signature. It is naive to believe all that worked with one can seamlessly migrate to another. In an AT context, the author would contend that the best people to decide on what elements and principles do transfer are those living with the threat and charged with resolving it.

There is no perfect model and no perfect solution. Mistakes will be made. Not everyone can be saved.

Interlinked points that may help future Anti-Terrorism efforts:

1. **Guidelines** – Intelligence-led policing is prone to post-incident inquisition. It requires relevant/robust guidelines and *intelligent* accountability. Emergency legislative provisions should comply with Human Rights; priority focused on Protecting Life, Prohibition of Torture and Fair Trial.
2. **Irreconcilables** – Requires the precision of Intelligence-led policing (*Tough Law*). Slow to evolve but extremely effective when it does. Demonstrates a discriminatory approach. Minimises collateral damage. Capable of executive action, arrests are the norm. Attracts conspiracy theorists.

3. **Prolonged Detention without Trial:** Alienates those needed most as allies and signifies an ill thought-out AT response early in a conflict. Seen as a knee jerk reaction. An own goal that takes time to recover from, but not fatal. Can be avoided if points 1 & 2 above are enacted before it.

What terrorists fear most is local effective policing and being stigmatised as criminals; no greater incentive then than to realise their worst fears. What they crave most is overreaction and the publicity it generates; why help them?

Intelligent accountability is important but must not trump operational efficacy. Noah's ark was made by amateurs. The Titanic was made by professionals. At times it is a matter of getting the main job done.

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## ABBREVIATIONS

ACC	Assistant Chief Constable
ACPO	Association of Chief Police Officers
AQ	Al-Qaeda
AQI	Al-Qaeda in Iraq
AT	Anti-Terrorism
CF	Coalition Forces
COIN	Counter-Insurgency
CT	Counter-Terrorism
DET	Detachment
ECHR	European Convention on Human Rights



FARC	Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia).
FRU	Force Research Unit
HMSU	Head Quarters Mobile Support Unit
IRA	Irish Republican Army
NI	Northern Ireland
PM	Prime Minister
PONI	Police Ombudsman of Northern Ireland
PIRA	Provisional Irish Republican Army
PSNI	Police Service of Northern Ireland
RIC	Royal Irish Constabulary
RUC	Royal Ulster Constabulary
RUC SB	Royal Ulster Constabulary Special Branch
SAS	Special Air Service
SSU	Special Support Unit
SB	Special Branch
TCG	Tasking and Coordinating Group
UK	United Kingdom
US	United States
VBIED	Vehicle Borne Initiated Explosive Device
WW1	World War 1

Zaragoza, 24th & Tuesday 25th November 2008