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Shoot to kill inquiry to be reopened

Northern Ireland police ombudsman will re-examine John Stalker files

Owen Bowcott, Ireland correspondent

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One of the most controversial inquiries of the Troubles, involving claims that police officers in Northern Ireland secretly adopted a "shoot to kill" policy, has been reopened, the Guardian has learned.

The allegations that republican terrorist suspects were deliberately killed rather than being arrested led to an investigation by John Stalker, then deputy chief constable of Manchester, in the mid 1980s. But his report was never published, and there was political uproar after he was removed from his post just at the point where he believed he was about to obtain an MI5 tape of one of the shootings.



Nuala O'Loan is to decide whether the John Stalker inquiry should be revived. Photograph: PA.

Now the files he compiled are being re-examined by the police ombudsman for Northern Ireland, who will decide whether to launch a new investigation. In an interview with the Guardian, Nuala O'Loan revealed that she had been asked by the government to see whether there are legal grounds to reopen the inquiry, focusing on the killing in 1982 of Gervaise McKerr.

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McKerr was shot dead alongside two other unarmed IRA men - Sean Burns and Eugene Toman - by Royal Ulster Constabulary officers following a chase through a checkpoint near Lurgan in 1982. Their car was riddled with 109 bullets.

The British government has always denied the security forces had a shoot to kill policy, and has resisted repeated calls from families to look again at what happened.

Three years ago, the House of Lords blocked an attempt to order a fresh investigation. But pressure to look into the matter has come from the Council of Europe, which has requested that the UK rectify previous investigative failures.

Any new investigation could focus on whether there was an explicit shoot to kill policy, and whether there was any attempt to tamper with evidence before Mr Stalker mounted his inquiry.

It would also provide encouragement to families who have been seeking compensation for what they have alleged were unlawful killings.

The government has referred the issue back to Mrs O'Loan. It has told the Council of Europe that the McKerr case "is now a matter for the police ombudsman who is responsible for investigating deaths as a result of actions of police officers. She will identify possible further evidentiary opportunities and will look into the original police investigation ... the ombudsman has given an assurance to expedite the case as best she can". There is no time limit on inquiries into the past.

Any reinvestigation would be complex because three police officers were acquitted of the killings more than 20 years ago. But at her office in Belfast, Mrs O'Loan confirmed the files were now with her. "The government has asked us to look at McKerr. It's quite complex whether we have the legal power to investigate or not. Police officers were charged with murder and acquitted.

"The law says you can't reinvestigate if there's been a

previous hearing. But it may be there are other issues that need to be investigated."

Mrs O'Loan is not yet sure whether she will have the resources or legal authority to do so. But she recognises that the inquiry might finally put to rest one of the most poisonous controversies of the Troubles.

The series of alleged shoot to kill incidents in question all involved RUC headquarters mobile support units in Co Armagh during November and December 1982. The first resulted in the deaths of McKerr, Burns and Toman; the second led to the death of Michael Tighe, shot on a farm near an IRA arms cache; and the third involved the killing of two INLA members, Seamus Grew and Roddy Carroll, at another checkpoint.

Mr Stalker was brought in to investigate the shootings. He was removed from the inquiry shortly before it was due to report in 1986 - taken off the case at the moment he believed he was about to obtain an MI5 tape of one of the shootings.

He was suspended over allegations of associating with criminals in Manchester, but was later cleared. The move generated public suspicion about the motives for his departure and a political furore in parliament. His report has never been published.

Jane Winter, of British Irish Rights Watch, who has been closely involved with the case, said: "We welcome the fact that the ombudsman is looking at the police misconduct allegation, but we think the McKerr family should have got a proper international judicial inquiry. She cannot reinvestigate the murders from the top down or whether politicians sanctioned this operation."

The McKerr family has pursued legal actions through the European courts, claiming that Gervaise was deprived of his life intentionally in breach of his human rights.

In his book, *Stalker*, published in 1988, the former deputy chief constable revealed that when he examined the

McKerr car 21 months after the shooting, he found fragments of a bullet still embedded in the vehicle, suggesting vital evidence had been ignored. Cartridge cases, he alleged, had also disappeared from the scene.

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