

Long waiting times for inquests into military fatalities in Iraq and Afghanistan: breach of UK's covenant with military families.

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Background

With waiting times for fatal accident inquiries into prisoner deaths as background¹⁻³, we analyse the waiting times for inquest verdicts into UK military fatalities in Iraq and Afghanistan in two periods: i) deaths prior to 1 May 2005 (which includes the initial brief period of major combat in Iraq⁴) and ii) deaths during 1 May 2005 to 30 April 2007 (which includes a sustained period of major combat in Afghanistan in summer 2006⁴).

The wait for inquest verdicts into prisoner deaths in Scotland over a 5-year period (1999-2003)³ was longer than 3 years in only three out of 97 fatal accident inquiries, but longer than 455 days in 13/97 prisoner deaths (13%).

In autumn 2007, I initiated inquiries via the Oxford coroner's office into the dates of verdicts, often narrative⁵⁻¹⁰, from inquests into military fatalities in Iraq and Afghanistan. By comparing with icasualties.org (which gives name, date and apparent cause of death for UK military fatalities), it quickly became apparent that the list of fatalities which the Oxford coroner's office was working with was incomplete. Since lists being tabled by ministers were likewise incomplete, resolution was unlikely to be achieved in Oxford.

I made inquiries via the Ministry of Justice but also raised the incompleteness of ministerially-tabled lists with Patrick Mercer OBE MP. Formerly a colonel in the British Army, he had asked parliamentary questions and made public his concern about delays in military inquests¹¹ (see House of Commons Hansard Written Answers: 14 February 2006, column 1857W and 11 December 2006, column 790W). As a result of his further parliamentary questions (Hansard Written Answers: 13 November 2007, column 142W and 31 January 2008, column 565W), or for coincident other reasons, the most recently tabled ministerial lists, such as in April 2008, accounted completely for UK military fatalities in Iraq or Afghanistan.

Methods

Using life-table techniques (see **Figure**), waiting times in days (from date of death to verdict date) are compared for: i) 90 military fatalities prior to 1 May 2005; and ii) 109 military fatalities between 1 May 2005 and 30 April 2007. The first series includes Trooper David Jeffrey Clarke whose death was taken into consideration at the inquest for Corporal Stephen Allbutt; Lieutenant Alexander Tweedie who died in Scotland from injuries in the vehicle accident that also caused the death of Lance Corporal Karl Shearer; and Staff Sergeant Chris McDonald who, having been due to leave the army in June 2003, was apparently working as a civilian security guard at the time of his death in Mosul.

In particular, we estimate the proportion of military inquests to reach a verdict within 2 years+90days (820 days: allowing 1 year for a Board of Inquiry, if convened, to report), and within 1 year+90 days (455 days) as for inquests into prisoner deaths.

Findings

Table 1 shows separately the waiting time distribution for i) 90 military fatalities prior to 1 May 2005); and ii) 109 military fatalities between 1 May 2005 and 30 April 2007. Censored waiting times (time to verdict exceeds d days) are asterisked, and multiple fatalities from the same incident are indexed by a superscript which identifies the associated number of fatalities. Typically, the inquests into linked fatalities are co-temporaneous. However, life-table calculations are presented initially from the perspective of a military family: the families are distinct although there is dependency of inquests. Ideally, all inquests that made critical findings should be shown in **BOLD**. Further work is required to establish this information. As a proxy, in **Table 1**, those inquests with a narrative verdict are shown in **BOLD**.

First series: Of the initial 90 military fatalities, only three were in Afghanistan (all non-hostile, including a linked homicide and suicide). There were four suicides in all, and an open verdict, among the 90 initial military fatalities which were investigated by 52 inquests. Unlawful killing was listed as the verdict (after 1446 days) in the inquest into the death by friendly fire of Lance Corporal of Horse Matthew Hull. Five other deaths by friendly fire had narrative verdicts in three linked inquests.

Verdict within 455 days was achieved in only 14/90 military fatalities (16%; se = 4%) in Iraq and Afghanistan prior to 1 May 2005; or in 11/52 linked inquests (21%; se = 6%). Verdict within 820 days was achieved in only 33/90 fatalities (37%; se = 5%); or in 27/52 linked inquests (52%; se = 7%).

Twenty-eight fatalities in 25 linked inquests were non-hostile deaths. Nine and 16 of these 25 linked inquests reached a verdict within 455 and 820 days respectively. Narrative verdicts were given in five, all of which took more than 820 days.

Verdicts are outstanding after 1339 days for 10 families of military personnel who died in a hostile transport plant crash on 30 January 2005. Of the 26 linked inquests into hostile military deaths in Iraq prior to 1 May 2005 which have concluded, eight recorded narrative verdicts.

Only one of the 13 linked inquests into military deaths prior to 1 May 2005 which recorded a narrative verdict concluded within 820 days – that which inquired into the death by hostile fire of Lance Corporal Paul Thomas at which the Powys coroner presided.

The longest waiting time to date has been 4 years+109 days but, quite unacceptably, 44/90 military families (49%; 95% CI: 39% to 59%) have had to wait for more than 3 years for an inquest verdict into their family's military death in Iraq prior to 1 May 2005. The families of those who died in Scottish prison custody in 1999-2003 were better served as far as the

timeliness of verdicts is concerned than have been the families of UK service personnel in the first series of deaths.

Unlike in the second series, only three of the initial 90 fatalities were ascribed to improvised explosive devices (IEDs).

Second series: In the second series of 71 inquests into 109 military fatalities in Iraq and Afghanistan which occurred between 1 May 2005 and 30 April 2007, 49/109 fatalities (45%) were in Afghanistan. Thus far, there have been recorded two suicides and one death ascribed to friendly fire (Private Andrew Cutts), with IEDs (only) having claimed 33 lives (30%; 95% CI from 22% to 39%) compared to three in the first series.

To date, eight of the 53 completed inquests have recorded narrative verdicts for 21 military fatalities. Of these eight inquests, the longest waiting time for families was 754 days for the inquest verdict into the 14 Nimrod deaths⁵.

Verdicts have been reached within 455 days for 46% (se = 5%) of the 109 fatalities, which is a marked improvement on the first series. It still falls considerably short of a proposed civilian target that 90% of fatal accident inquiries into prisoner deaths should report within 455 days³. Reassuringly, however, only one inquest to date in the second series has taken longer than 820 days to conclude but verdicts are awaited in 18 inquests into 22 deaths. At 30 April 2008, these had censoring times in the range from 377 to 631 days.

Non-hostile causes accounted for 28/90 deaths in the initial series, with at most two linked fatalities in any incident; and for 26/109 deaths in the second series - 10 singleton deaths, one pair and the single large cluster of 14 Nimrod deaths.

Table 1: Stem and leave diagrams display the distribution of waiting times from date of military death to verdict date

{PLEASE NOTE: censored waiting times (time to verdict exceeds d days) are asterisked*, and multiple fatalities from the same incident are indexed by a superscript which identifies the associated number of fatalities^{2 say}, or by +. To interpret other superscripts, please see footnotes. Fatalities in Afghanistan are in *italics*. Non-hostile deaths are shown in blue. Inquests with a narrative verdict are shown in **BOLD**. Stem 200-299 and leaf 21 denotes waiting time of 200+21 = 221 days}

Stem	i) Military fatalities in Iraq and Afghanistan: 2002 to 30 April 2005	ii) Military fatalities in Iraq and Afghanistan: 1 May 2005 to 30 April 2007
Under 100 days	36	42 (? misprinted – perhaps 408)
100 - 199 days		43 56 68 70 ^E
200 - 299 days	21 61 61 ^S 92	18 29 ^E 49 ^E 53 ^E 55^S 55 58 62 ^E 72 ^{2E} 91
300 - 399 days	27 76 98 ^{2H+S}	03 ^{2E} 20 ^{4E} 16 31(<i>misprinted</i>) 32 ^E 32 37 ^S 72 73 ^{4E} 74 77 ^{2E*} 82* 82 ^{2*} 86 94 94*
400 - 499 days	05 ³ 13 21 61 ^E 61 95	02 02 10 ⁵ 12 ³ 20 ^E 24 ^{2*} 28* 30* 34* 36 ^{2E} 48 57 61 63 67 ² 71* 73* 74 90 ^E 98 ^{2E}
500 - 599 days	05 ² 07 ^S 52 82 99	05* 06+11 12* 23* 37 ^{FF} 59* 63 ^{3E} 65 87 ^E 89 ^E 94
600 - 699 days	04 ^E 61 81	01* 02* 04 ^{2*} 10 ² 14 31*
700 - 799 days	02 28 45 ^S 76 80 ³	52 ^E 54 ¹⁴
800 - 899 days	25 87	42 ^E
900 - 999 days	22 31 ^{OV} 93 ⁶	
1000 - 1099 days	50 52 ²	
1100 - 1199 days	00 02 79 85	
1200 - 1299 days	27 ^E 71 87 ²	
1300 - 1399 days	19 ^{2FF} 21 ² 31 39 ^{10*} 41 62 ^{FF} 88 ⁶ 96 ^{2(AT)}	
1400 - 1499 days	46 ^{FF} 91 ⁸	
1500 - 1599 days	70 ^{2FF(DJC)}	
Totals: inquests	52	71
Totals: military fatalities	90	109
Fatalities in Afghanistan	3	49
Probability of verdict for family within 455 days :	16% (se = 4%)	46% (se = 5%)
Probability of verdict for family within 820 days:	37% (se = 5%)	Poorly estimated: risk set of 9 inquests beyond 600 days.

H = homicide, S = probable suicide, OV = open verdict, FF = probable friendly fire, and E = improvised explosive device.

Summary

The need for resources to assist coroners in undertaking inquests into military fatalities in Iraq and Afghanistan was not sufficiently anticipated to avoid unacceptably long waiting times to inquest verdict for the 90 families of service personnel who died in Iraq (all but three) or Afghanistan prior to 1 May 2005. Thereafter, waiting times have fallen dramatically with 46%, rather than 16%, of inquests into 109 military deaths in Iraq and Afghanistan from 1 May 2005 to 30 April 2007 having reported within 455 days, and only one of the 53 completed inquests in the second series has exceeded 820 days.

Parliamentary questions have succeeded in achieving a complete listing of military inquests.

The next task, in accordance with international good practice (such as on prisoner inquests³), is for critical findings made by a completed inquest to be added to the quarterly listing lodged by Ministers in the House of Commons library. In addition, parliamentarians (and thereby the press and the public) should be updated every six months on the actions taken by departments and Ministers to implement the recommendations made in good faith by coroners; or the reasons given for setting them aside. Only by doing so, can the public be assured that its covenant with the armed forces is upheld, for and on behalf of those in uniform who serve their country. Lest we forget.

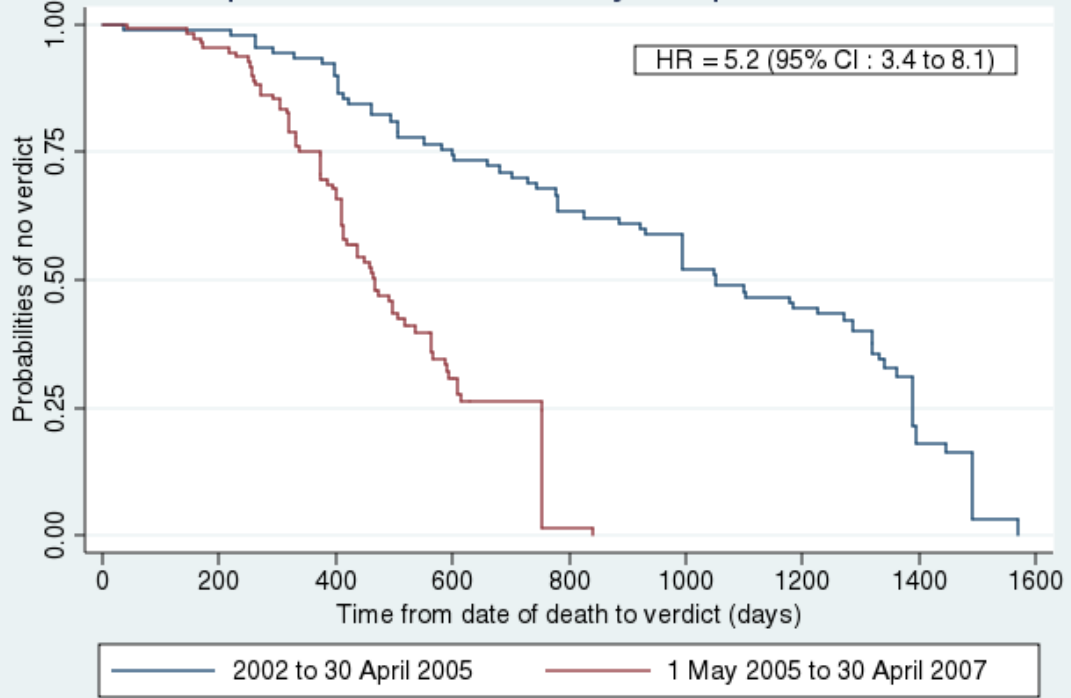
Recommendations

First, critical findings made at inquests into UK military fatalities should be detailed on the ministerially-tabled quarterly listing which is placed in the House of Commons library. The ministerial listing could then also indicate the action taken, and date thereof, in response to critical comments, not all of which may be accepted.

Secondly, additional work is required, and should be done, to partition the overall waiting time to inquest verdict into: a) waiting time from date of death to report by Board of Inquiry + b) waiting time from Board of Inquiry's report date to inquest verdict date. This requires an extra column on the ministerial listing to show whether a Board of Inquiry was convened and, if so, its report date.

Thirdly, cause of death - as determined by the inquest (which may differ from the cause as registered on icasualties.org) – should appear on the tabled listing.

Kaplan-Meier estimates by two periods of time



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