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IN THE MATTER OF THE CORONERS ACT (NORTHERN IRELAND) 1959

IN THE MATTER OF A SERIES OF DEATHS THAT OCCURRED IN
AUGUST 1971 AT BALLYMURPHY, WEST BELFAST

Appearances on behalf of Properly Interested Persons:

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(instructed by Ms Rosalind Johnston on behalf of the Coroner)

Mr Kevin Rooney QC, Mr Peter Coll QC, Mr Martin Wolfe QC, Mr Mark Robinson,
Mr Joseph Aiken, Mr Andrew McGuinness, Mr Mark McEvoy
(instructed by the Crown Solicitor's Office on behalf of the Ministry of Defence and
Police Service of Northern Ireland)

Mr Michael Mansfield QC, Ms Karen Quinlivan QC, Ms Fiona Doherty QC, Ms Brenda
Campbell QC, Mr Desmond Hutton, Mr Des Fahy, Mr Sean Devine, Mr Eugene McKenna
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Mr Barry Macdonald QC and Ms Laura McMahon (instructed by Phoenix Law Solicitors)
on behalf of the Next of Kin

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KEEGAN J

I. INTRODUCTION

[1] The series of inquests known as the Ballymurphy Inquests comprise five incidents. Therefore I heard this case in modular format. The inquest is a fact finding exercise, it is not a criminal or civil trial. Incident 1 concerns the deaths of Francis

Quinn and Father Hugh Mullan on 9 August 1971. Incident 2 concerns the deaths of Noel Phillips, Joan Connolly and Daniel Teggart on 9 August 1971 and the subsequent death of Joseph Murphy on 22 August 1971 (Mr Murphy having been shot on 9 August 1971). Incident 3 concerns the death of Edward Doherty on 10 August 1971. Incident 4 concerns the deaths of John Laverty on 11 August 1971 and of Joseph Corr on 27 August 1971 (Mr Corr having been shot on 11 August 1971). Incident 5 concerns the death of John James McKerr on 20 August 1971 (Mr McKerr having been shot on 11 August 1971). This chapter deals with some contextual background, case management issues and the legal issues which arise.

[2] As will be apparent, these incidents occurred over a three day period from 9 to 11 August 1971 in the Ballymurphy area. Incident 1 occurred in an area of waste ground that lay between Springfield Park and Moyard Park in this area. Incident 2 occurred at a location known locally as the Manse on the Springfield Road. Incident 3 occurred on the Whiterock Road. Incident 4 occurred in an area known as the Mountain Loney close to Dermot Hill Park. Incident 5 occurred on Westrock Drive close to Corpus Christi Church.

[3] These deaths are now in their 50th anniversary year and yet the effect of them remains stark for the bereaved families and the other persons involved. The context of this case is the so-called "Troubles" which were taking place in Northern Ireland at the time. That highly charged and difficult environment is something that the people of Northern Ireland still remember and hope is behind us. The Troubles are one aspect but the specific backdrop to Ballymurphy was the internment operation that was initiated by the British Government in 1971 and code named Operation Demetrius. That operation had been proposed by the Northern Ireland Executive at a meeting with the Prime Minister Edward Heath on 5 August 1971.

[4] This policy was designed to stymie the growth of paramilitary activity in Northern Ireland and as part and parcel of it the Government agreed to military support. Inevitably, the target of the operation was the Irish Republican Army

("IRA") which was active at the time. It was to be a planned operation carried out under Regulations pursuant to the Civil Authorities (Special Powers) Act (Northern Ireland) 1922. The aim was to take those suspected of being members of the IRA out of circulation and have them interned. This operation was enacted with military support and commenced at around 4.00am on 9 August 1971.

[5] The arrests that occurred on that day were widespread and spanned throughout Northern Ireland and not just West Belfast where these deaths occurred. However, there were a considerable number of arrests in West Belfast which was known to be an area of Republican activity. Following the introduction of internment there was a reaction from the local population throughout Northern Ireland. This manifested itself as disorder on the streets of Belfast and elsewhere. The RUC duty officers' reports for 9 and 10 August 1971 paint a picture of the scale of unrest and strife as follows. Across Belfast alone on 9 and 10 August 1971 it is recorded that there were approximately 12 explosions, 59 shooting incidents, 17 reported deaths, 25 reported injuries, 13 incidents of rioting, 18 reports of arson and other reports of civil disorder of various kinds. It is hard to imagine now the extent of the difficulties that the local people faced in Northern Ireland when all of this was at its height.

[6] This background provides the context in which these deaths occurred. However, whilst the broad background frames each incident, there are many different considerations and complexities in these cases. The deaths themselves occurred at different times and in different ways and in each of the inquests it is apparent that different questions are raised. For these reasons, I have prepared a specific set of narrative findings in each case.

[7] I heard oral evidence over 100 court sitting days making this the longest running inquest in Northern Ireland to date. I also read thousands of pages of evidence and detailed legal submissions which were filed at the conclusion of the evidence. All properly interested persons had the benefit of expert legal

representation and in addition I allowed lawyers to attend for certain individual military witnesses and some of these lawyers provided submissions to me when particular points arose.

[8] Before the inquest began, the Coroners Service for Northern Ireland made various public appeals for evidence. I repeated this at the start of this inquest by making a public statement which I attach at **Annex 0.1**. This resulted in additional witnesses coming forward to give evidence over the course of the year during which this inquest was heard. Therefore, I am satisfied that all those with relevant information have had ample opportunity to come forward to assist me.

[9] The inquest was open to the public. At times witnesses were screened and many witnesses were anonymous. I am happy to say that all parties abided by my directions in relation to this matter and I particularly thank the media who acted responsibly, raised queries when they were unsure and reported in an appropriate way.

[10] In all of these inquests I have had the benefit of substantial civilian evidence. I have had less military evidence before me in these cases. There are also different categories of evidence I have considered, namely contemporaneous statements, later interviews, and current statements. I have explained how I have assessed each category of evidence in my findings. I will come to that in due course. I have had to assess each incident on its own facts looking at the evidence that I heard and having considered the substantial amount of documentary evidence emanating from the police, Ministry of Defence ("MoD"), Historical Enquiries Team ("HET"), contemporaneous reporting and other evidence. I have been greatly assisted by the use of maps from the time and photographs. I have considered all of the above and pieced this evidence together to reach a verdict in each case.

II. SCOPE

[11] This inquest has looked at the deaths between 9 and 11 August on the basis of a scope document which was agreed in advance. This is in compliance with the requirements of the Coroners Rules I will refer to and also Article 2 of the European Convention on Human Rights. The scope that was agreed reads as follows:

1. This inquest will examine 10 deaths that occurred following shooting in Ballymurphy on 9, 10 and 11 August 1971, namely:
 - (i) The deaths of Francis Quinn and Father Hugh Mullan on 9 August 1971.
 - (ii) The deaths of Noel Philips, Joan Connolly and Daniel Teggart on 9 August 1971 and subsequent death of Joseph Murphy on 22 August 1971.
 - (iii) The death of Edward Doherty on 10 August 1971.
 - (iv) The deaths of John Laverty on 11 August 1971 and of Joseph Corr on 27 August 1971.
 - (v) The death of John James McKerr on 20 August 1971.
2. The inquest will examine the deaths individually and, so far as is consistent with the objective of determining how the deceased came about their deaths, collectively. The above is suggested as the order in which the deaths should properly be considered and should not be regarded as according greater or lesser priority to any death or any incident.
3. The inquest proceedings will consider the four basic factual questions as required by Rule 15 and Rule 22(1) of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 concerning:

- (i) The identity of the deceased;
 - (ii) The place of death;
 - (iii) The time of death; and
 - (iv) How the deceased came about their deaths.
4. Further, related to the how question, the Coroner will examine in evidence the military operation(s) that culminated in the deaths with reference in particular to the following matters:
- (i) the purpose of the operation(s);
 - (ii) the planning and control of the operation(s) on the part of the relevant authorities, including the management and deployment of any intelligence available to those authorities at the relevant time;
 - (iii) the actions of those involved in the operation(s) at all stages of the operation(s);
 - (iv) the training and experience of those involved in the operation(s) at stages of the operation(s);
 - (v) the state of knowledge of those involved at all stages of the operation(s);
 - (vi) whether in the planning and control of the operation or in the conduct of the operation, those involved sanctioned or engaged in the deliberate use of lethal force that was unjustified by reference to Article 2 of the ECHR and/or domestic law and whether, in any event, state authorities (including the military and the RUC) tolerated the deployment of unnecessary and unreasonable force by soldiers.
 - (vii) the nature and degree of force used;

- (viii) issues concerning access to emergency medical care, including the actions of the military or any other relevant personnel in assessing, planning or delivering emergency medical care or arranging transfer for provision of such care; and the training and experience of those involved in such care;
 - (ix) any alleged acts or omissions on the part of those involved in the operation in the aftermath of the shootings, insofar as such alleged acts or omissions are relevant to the consideration of how the deceased came by their death;
 - (x) the RUC/RMP Agreement and post incident procedures that were in existence at the time of the shootings, the effect of that agreement and those procedures on the investigation into the deaths and the extent, if any, to which the agreement and procedures bear upon the issues raised at 4(vi) above (including the question of whether the agreement and procedures impacted on any decision at any level to have recourse to lethal force).
5. The inquest will consider specifically whether the deployment of the military on the dates on which the shootings occurred was planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force and will consider whether the actual use of force was justified in the circumstances of each death.
6. In considering the planning and control of the operation(s), the inquests will examine:
- (i) Decisions taken at all levels of authority that touched on the nature and degree of force to be used in operations of this kind at the relevant time; and

- (ii) Such guidance as existed at the relevant time relating to the use of force in such operation(s).

- 7. The inquest will also examine, insofar as is necessary to address the above matters, such evidence as exists concerning the circumstances in which the deceased came to be at the locus of death at the relevant time.

- 8. The inquest will also examine, insofar as is necessary to address the above matters, the extent, if any, of any public disorder and/or paramilitary activity reported in the vicinity of each of the deaths on 9 to 11 August 1971.

- 9. The inquest will keep under consideration the question of whether the deaths were attributable to causes other than the use of force by members of the military, having regard to recent suggestions that a member of the UVF discharged rounds at the location of the shootings at the time of the incidents that culminated in the deaths.

[12] Counsel also referred me to a paragraph that was included at an early stage of preparation for these inquests which reads as follows:

“The next of kin have invited the Coroner to examine whether those involved at any level in these incidents were engaged in a ‘shoot to kill’ operation. The Coroner is satisfied that this question is, in legal terms, addressed by paragraph 4(vi) above. The Coroner would emphasise that the preliminary definition of scope should not be narrowly construed. For the avoidance of doubt, the Coroner directs that the relevant authorities must disclose all relevant or potentially relevant material touching on the circumstances in which the deceased met their deaths,

including any material relevant to the question raised by the next of kin as to whether those involved at any level were engaged in what the next of kin have termed a 'shoot to kill' operation."

III. CASE MANAGEMENT

i. General

[13] I case managed this inquest upon becoming Presiding Coroner in Northern Ireland over the period of a year. Sometimes this involved hearings every week particularly on the issue of disclosure. I did this mindful of the need to have this case concluded notwithstanding the many issues which arose. I am indebted to all lawyers who worked hard during this period to ensure that my directions were followed. Without this application and energy this inquest would simply not have been possible and so it should be a template for other cases going forward. There are over 50 other legacy cases due to be heard as part of the 5 year plan which will also involve the robust case management that I have employed.

[14] Practitioners also have the benefit of the case management and witness protocols issued by the Coroners Service which guide good practice. There is a commonality of interest in doing this work efficiently otherwise these historical cases will drift for many more years without resolution, clog up the legal system and continue to cause distress and anguish due to the lack of certainty. To my mind that is not to the benefit of the people involved or Northern Ireland society as a whole. There are also European obligations to deal with these legacy cases within a reasonable time which the courts are committed to.

[15] I recognise that inquests must be conducted fairly, in line with domestic and European obligations provided by Article 2, however proportionality must also be applied particularly in historical cases. In inquests of this nature the Coroner must

undertake an effective investigation in a proportionate way, bearing in mind that in historical inquests not all questions can be answered and not all evidence can be found. There must be a realisation that in historical cases of this nature there are impediments which will arise and perfection is hard to achieve. Also, the obligation is investigative and it does not span into writing up an entire history of our past. The investigative obligation remains live whilst the inquest is ongoing and may change as the inquest develops and the issues become more apparent. If the option is to persist indefinitely or to decide on the basis of what is available the Coroner should at a certain point be able to draw a line. This consideration should of course involve input from all interested parties but the decision ultimately rests with the Coroner. That is the approach I have adopted in this inquest.

[16] I have also welcomed the collaboration between the parties in this case in dealing with a range of issues. Again, this approach will hopefully be utilised in cases going forward to ensure momentum with the engagement of all properly interested persons.

ii. Anonymity and Screening

[17] I have considered a number of cases which deal with this issue in particular *Re Officer L* [2007] UKHL 36 and a decision of the Northern Ireland Court of Appeal *In the matter of an application by Officers C, D, H and R for leave to apply for judicial review* [2012] NICA 47. The procedure for dealing with anonymity and screening has, it seems to me, become rather convoluted and last minute in this jurisdiction. Hence, I tried to streamline applications in this inquest for the benefit of future inquests as follows. The procedure is that there is an initial submission of an application which must be in writing. It is important that there is a separate application submitted for each applicant because along with objective evidence of risk for an applicant coming to give evidence in an inquest in Northern Ireland consideration must be given to subjective fears which an applicant may have. In fact

the latter category of evidence proved most persuasive in many of the cases I adjudicated on.

[18] In each case I requested a risk assessment relating to the applicant from the Police Service of Northern Ireland advising on the risk to the applicant of giving evidence at the inquest, being referred to in documentary or oral evidence, or otherwise without anonymity and/or screening as the case may be. Having dealt with over 100 applications I have found that the risk assessments are generic. Predictably the assessments have told me that the risk of attack from dissident elements in Northern Ireland remains. That of course is a matter of public record. However, in terms of military giving evidence in Northern Ireland the risk was largely described as low which could rise to moderate if someone attended in Northern Ireland to give evidence. Inevitably, and rather obviously, if a military person lived in Northern Ireland, that risk could increase due to potential identification in the community. The wording of the assessments is unavoidably couched in terms of possibility rather than certainty or even probability.

[19] In addition to these types of issues much of the subjective fears related to fear of identification in the community, particularly given social media methods for the spreading of information. I read with care the submissions made in all of the cases. They uniformly referred to the fear of attack in Northern Ireland. In this case there were a range of subjective fears put forward which were understandable particularly given the age of many of the witnesses and the fact that these events occurred some time ago and also that this inquest has a high public profile.

[20] I allowed representations in relation to these applications by the next of kin who also filed very helpful written arguments in relation to them. I then made decisions in relation to the cases, some were provisional decisions, some were final decisions but I tried to make decisions on a rolling basis to make sure that this inquest proceeded with the least amount of disruption. I did give separate

consideration to the facts and circumstances of each application bearing in mind the risk assessments which I have already described.

[21] Having regard to the observations of the Northern Ireland Court of Appeal on the engagement of Article 2 in *In the matter of an application by Officers C, D, H and R* [2012] NICA 47, the question arises as to whether the evidence before the Coroner establishes a real risk to life that is neither fanciful nor trivial and that is present or will be present if a particular course of action is or is not taken. In that case the decision was directed at police officers serving in Northern Ireland and whilst this may comprise a particular category the risk remains for military personnel who have served in Northern Ireland who may be asked to come to Northern Ireland and/or retired police officers.

[22] The law is quite clear in relation to the assessment of risk. Drawing from the cases I have mentioned, I rely on a particular passage as follows from *C and others* [2012] NICA 47 at paragraph [43]:

“In the context of Northern Ireland which has been subjected to decades of homicidal attacks on individuals by organised terrorists the threat to life has been real, although for the bulk of the population it is not a threat directed at them individually so that for most the risk is not present and continuing in the sense of immediate to them. For some, such as members of the police force, the level of threat has been and continues to be at a much higher level and is much more immediate. It cannot be considered as anything close to fanciful and it is significant. The requirement to give evidence imposed on officers involved in this inquest will, according to the evidence, increase a present threat possibly significantly depending on the nature of the evidence and other

unknown contingencies arising out of the inquest. The risk accordingly must qualify as real, continuous and present.”

[23] Of course, the present evidence relates to an ongoing dissident threat that has been evidenced by a number of incidents in Northern Ireland and I was provided with press briefings in which that threat was very definitely described as real, continuing and present. So it is clear that Article 2 is engaged in these cases. In addition, there are common law powers to protect witnesses where appropriate which I utilised particularly when dealing with medical vulnerability.

[24] It is unnecessary to recount my decision in each and every case but I attach some decisions made during the course of the inquest which illustrate my methodology in **Annex 0.2**. Suffice to say I decided each case on its own facts and determined what proportionate protective measures should be adopted in consequence of the clear risks apparent to the military in this inquest. I also decided these cases in the open forum of the court having received written submissions from each interested party and upon hearing oral submissions.

[25] The grant of anonymity was a minimum protection which was afforded in most cases. Then the issue of screening arose and I looked at this in each case to decide whether it was proportionate. In some cases I did not allow screening because where anonymity has been granted, the risks to witnesses are alleviated and additional risks may be too remote to lead to the grant of screening. So there were some cases where screening was allowed and some cases where screening was not allowed. When I allowed for screening, I did not prevent the next of kin from seeing the witness because I considered it important that the next of kin should see the military witness and I had absolute confidence that there would be no difficulty in the next of kin engaging properly with that process.

iii. Use of live link evidence

[26] In addition, the issue of live link evidence arose and this was something that I granted in many of the applications as witnesses were outside the jurisdiction, fearful of coming to the jurisdiction and in some cases exhibited medical issues which would necessitate a provision of special measures. Of course this inquest occurred pre the Coronavirus Act 2020 which allows for live link but I applied my common law discretionary powers in the inquest to allow for live link. Subsequently I have also utilised this hybrid format in the *McElhone* inquest reported at [2020] NI Coroner 1 which I concluded in January 2021. This does involve preparation and testing as I set out in *Mc Elhone* as follows:

“[12] When using remote technology there is a need to ensure that it works. Thus, I ran tests for each witness in advance. An agreed bundle of documents was sent to each witness in advance as I wanted to make sure that witnesses had access to the relevant papers. For some of the witnesses, representatives from the LIU were with witnesses in remote locations. We used a variety of locations including hotels and police stations and private homes. When LIU representatives were not present I allowed family members to accompany witnesses or ensured they could manage without support. I record the high level of collaboration between the parties in relation to these issues which meant that this inquest could proceed as a hybrid hearing on schedule. In this case all interested parties agreed that the approach was the best to ensure that the inquest could proceed.”

[27] I have no doubt that this method is a valuable tool in dealing with legacy inquests which will pertain after the Coronavirus Act 2020. There is a statutory regime regarding criminal trials in which live link is used, the test for special

measures being whether or not this would be “likely to improve the quality of the evidence given by the witness.” This medium is frequently used in other jurisdictions including the civil and family jurisdictions with the main focus being to improve the quality of evidence. In all of these applications I allowed the views of the next of kin to be taken and then I considered each case on its own merits.

[28] I note the case of *R v Camberwell Green Youth Court* [2005] 2 Cr App R 1, albeit in the different context of criminal proceedings, where it was found that the notion of face to face confrontation whereby a defendant or his representatives were permitted to confront in person an accuser was not a right guaranteed by the Convention. In very many cases I did allow for witnesses to give evidence by live link. I should say that live link did not sit well with screening so in most cases where there was live link there was no screening of the witness.

[29] I should say that I also allowed some of the witnesses to have a family member with them or someone else to assist if they were vulnerable, hard of hearing, or had medical conditions. In very many of the cases I had to deal with persons who had early onset dementia and that led to them either not being able to give evidence, or giving evidence in writing only. In the most extreme cases this led to medical excusal. In each case I afforded all interested parties the opportunity to make submissions and I considered medical evidence. I also employed a range of options aimed at trying to obtain evidence if at all possible. This is an important issue and so I set out in some detail examples of the medical excusal applications that I heard and how I dealt with them in **Annex 0.3**.

[30] In all of these scenarios I heard from the representatives of the next of kin and in some cases I actually heard evidence from the medical professionals. I did this in particular to satisfy myself that someone was incapable of giving evidence and so should be excused. I did find in this case that the quality of the medical evidence provided varied and there was no clear view in some of the applications as to why someone would be incapable of giving evidence. But in very many cases there was a

clear diagnosis of dementia which inevitably led to a problem in giving direct evidence. I utilised a process whereby rather than immediately excuse I asked whether or not a witness could actually answer some questions in writing in advance and only then did I formally excuse the witness.

iv. Disclosure

[31] *In Chief Constable of the PSNI's Application* [2010] NIQB 66 Gillen J referred to the broad purposeful approach to disclosure and the inquiry being conducted. This theme is drawn from Lord Bingham's comments in *Jordan v The Lord Chancellor and another* [2007] UKHL 14 where he said (at paragraph 37):

“The coroner must decide how widely the inquiry should range to elicit the facts pertinent to the circumstances of the death and responsibility for it. This may be a very difficult decision, and the enquiry may (as pointed out above) range more widely than the verdict or findings.”

[32] It follows from the above that inquest practice in Northern Ireland has developed a flexible approach to disclosure. This approach is important to maintain public confidence and the confidence of the families who are bereaved. It is also vital to ensure that properly interested persons can participate in an informed, open and transparent manner and on an equal footing with other properly interested persons at all stages in the inquest process. The test the Coroner must apply in relation to disclosure is potential relevance. This approach also allows for a Coroner to apply pragmatism and proportionality during case management. In an inquisitorial process the Coroner has to manage the process within these boundaries.

[33] There were several occasions when material that had not previously been obtained emerged in the course of the inquest. This is not surprising in a case of this vintage and complexity. There were, for example, notes of interviews conducted by

a researcher in and around 1999 that only became available after the evidence had commenced and the material had to be assessed for relevance. Those parts of the notes that were relevant were processed for disclosure. There was also some material produced by witnesses, for example photographs from the relevant period in the possession of civilians and archive materials in the possession of military witnesses, that was provided in the course of the evidence.

[34] After the oral evidence had been completed, the Crown Solicitor's Office provided the Coroners Service with intelligence reports from the early 1970s relating to two men whom a witness had said were IRA members present at the time of the deaths and also with a note of an interview by the Historical Enquiries Team in respect of other incidents that touched on IRA activity in the area in 1972. The former material supported the proposition that the two named men were indeed members of the IRA, but the material did not relate to the deaths at Ballymurphy. Likewise, the latter material did not relate in any way to the deaths although it mentioned a location of Corry's yard that had featured in the evidence. Therefore, while the material was not relevant to the deaths, in the interests of transparency, I provided a gist to properly interested persons in correspondence from the Coroners Service.

[35] Accordingly, I am satisfied that all potentially relevant material was provided to properly interested persons in accordance with the approach of Gillen J as noted above, thereby ensuring that they through their representatives could participate fully in the inquest proceedings. I am also satisfied that my investigation was proportionate to the issues involved.

v. Obtaining the military statements

[36] In this case a particular difficulty arose concerning the identity of soldiers who had made statements after the incidents. Those soldiers were allocated cipher letters, but the cipher lists that would enable them to be identified have not been

made available to me. The system at the time involved Royal Military Police (“RMP”) investigators in the Special Investigations Branch (“SIB”) presenting the evidence to the original inquest. I was told that the Coroner would have been given a sealed envelope containing the original ciphered soldier names. I have however not been able to locate the ciphered soldier names and I have found that most frustrating in this inquest. It remains the fact therefore that many of the soldiers who made statements to the Royal Military Police at the time cannot positively be identified. In addition to this, it also transpired that some of the contemporaneous logs were missing.

[37] I ensured that this matter was investigated to the greatest extent possible. I required evidence from the Ministry of Defence about how this situation could possibly have come about and about the investigations that were undertaken to address the matter. In that regard I received a number of affidavits which I summarise as follows.

[38] First, the affidavits of Matthew Lewsey of 22 December 2017 and 5 November 2018. I should say that Mr Lewsey also attended and gave evidence on oath on my request as to the contents of this affidavit. In the affidavit Mr Lewsey described himself as the Head of Inquests, Judicial Review and Public Inquiries at the Ministry of Defence at the relevant time. He said that he had been in position since June 2017. In this affidavit he referred to the oral evidence that he gave on 25 May 2018 in relation to these disclosure issues. In his first affidavit at paragraph 9 Mr Lewsey averred that to his belief the cipher list had been destroyed by the Military of Defence. During his evidence he referred to a number of searches that could have been undertaken in relation to finding the cipher list and he clarified what he had done since that time in the November affidavit.

[39] In his affidavit Mr Lewsey said that he was asked about lists of statements held by the Central Criminal Records and Intelligence Office in London and no further information in relation to this had been forthcoming. In his evidence session

on 25 May 2018 Mr Lewsey was asked by Mr Mansfield QC about the issue of recording of the discharge of weapons and the outcome of the search for those records for the period 9 to 11 August 1971. In response, he reiterated that armoury logs had been searched for unsuccessfully in a number of repositories, and directed the court to the fact that this was set out in his previous affidavit of 22 December 2017, which included the substantive responses of Ministry of Defence to the extensive enquiries made by the representatives of the next of kin. In his evidence he also reiterated that the MoD had been unable to locate the regulations dealing with the maintenance and issue of weaponry in 1971.

[40] Mr Lewsey could not provide an explanation as to why statements which were un-redacted (and contained the names of the statement makers) in relation to the internment arrest operation in August 1971 were available but the other statements in relation to the shootings were not.

[41] There was a further affidavit of 28 May 2019 from a Lieutenant Colonel Nick Carroll S01 Operational Legacy Army Personnel Services Group dealing with the discovery of radio logs. He said that in 2015 MoD provided the inquest with available radio logs. In relation to the missing radio logs he said at paragraph 12:

“From my own experience the way that material (such as radio logs) was preserved by the Army was unfortunately not uniform, and that the MoD does not, for instance have a complete set of radio logs in respect of its operation generally.”

[42] This witness referred to specific requests that came to him in respect of missing logs. Ultimately, it was clear that these could not be found and the witness concluded by saying:

“I have no doubt that it would be very much in the best interests of the MoD and the Army for these logs to be produced, especially given the time period that has elapsed since the events under investigation. Watch keeper or radio logs are real time contemporaneous records that can provide great assistance in understanding what has been reported at any given point in time. They are generally contributed to by multiple radio operators in multiple locations, reporting into a central watch keeper (who is not themselves present to witness the events but is tasked with the responsibility of recording what they are being told). Radio logs are operation material, as opposed to some form of historical record (like an operations report on events). The obligation for the radio logs to be an accurate record is perhaps increased by the fact that operational decisions by the chain of command have to be taken on foot of the information received and recorded.”

[43] It will be apparent from the above that there have been difficulties in securing all information, in particular, the cipher lists. It has been suggested by the Ministry of Defence that it was the practice of the RMP at the relevant time to destroy the information for security reasons. The MoD represented to the HET in and around 2007 that this was done in accordance with standing instructions in place at the relevant time. This explanation was also given to the Coroners Service in correspondence of 12 April 2017. As yet, however, no such standing instructions or other regulations appear to have been located save a chapter of a document entitled “The Provost Marshall Instructions for RMP Case Papers.” These instructions do not address the specific matter of retention or destruction of cipher keys which has given rise to the difficulty in this case. This issue has also been addressed in evidence by the witness from the Ministry of Defence as I have recounted, Mr Lewsey. He said

that former members of the Special Investigations Branch had been spoken to about this matter but no further information was forthcoming. The witness also confirmed that it had not been possible to locate the nominal roll for the battalions involved at the relevant time.

[44] So, whilst it was possible to identify some of the soldiers who made statements at the time, the identities of many of those soldiers remain unknown. A particular challenge therefore was the gathering together of statements from relevant military witnesses to assist in these inquests. Understandably, the next of kin wanted to ensure that all efforts were made to address this issue. The key regiments were identified as 2 Para B Company, 2 Para Support, 2 Queen's and 1 Para C Company.

[45] Faced with these challenging circumstances, I should say that as of June 2019 the Coroners Service had identified around 800 soldiers as *potentially* able to assist this inquest and it had obtained contact details for 567 soldiers (168 were confirmed as deceased). A number of those witnesses were identified, by means of a review of all the documentation available to the Coroners Service, as having been at Ballymurphy or as being in a position to assist the coroner's examination of the deaths. This group, which initially comprised 60 individuals, was described as the core or target group of military witnesses.

[46] I appointed Fieldfisher Solicitors to take statements from these witnesses. In addition to that, questionnaires were issued to all of the other living military witnesses for whom contact details had been obtained. The objective of the questionnaires was to identify further witnesses who might be able to assist and from whom statements should be taken. The response rate to the questionnaires was in the region of 70%.

[47] Then, in July 2019 the solicitor to the Coroners Service was invited to view further MoD materials that might be capable of assisting this inquest. Those

materials included lists of soldiers who had been involved in the internment operation in Belfast in the early hours of the morning of 9 August 1971. The materials also included statements from those soldiers, relating to the arrests on internment day. An examination of that material revealed 77 further potential witnesses who had not previously been identified. When contact information relating to those individuals was obtained they too were issued with questionnaires.

[48] In late August 2019 the MoD also furnished the Coroners Service with a further source of potential witness details. The source was described as Data Preservation Repository Records or DPRR. Unfortunately, this had the potential to totally unravel the listed inquest because of the nature in which this information was presented and the extent of it. These records presented at such late notice contained no information about Ballymurphy. There was nothing in the records to indicate where the named soldiers were posted at any given time. There were details such as names, service number and regiment of thousands of soldiers who served in Northern Ireland in the 1970s. The initial figure was 4,773.

[49] It was frustrating to receive this un-paginated, ill-defined bulk of disclosure at such a late stage. Again, the Coroners Service had to undertake a considerable amount of work to actually decipher this information. The Coroners Service was committed to doing this within a relatively short period of time otherwise this inquest would have been thrown off track for many months, if not years. It was possible to narrow down the information through the removal of duplicate entries, members of regiments who were not involved at Ballymurphy and individuals who had already been traced by the Coroners Service.

[50] The Coroners Service also cross-referenced personnel files to obtain confirmation of whether individuals were actually serving in Northern Ireland at the time of Ballymurphy. As it transpired, notwithstanding the huge initial number of 4,773, the “filtering” exercise resulted in the issue of several hundred further

questionnaires to soldiers who may potentially have been in a position to assist the inquest.

[51] I deployed a novel approach whereby I convened a joint meeting of all counsel in the case and asked that counsel look collaboratively at the tracing of relevant military witnesses and the identification of witnesses from whom statements should be taken. I must say this was incredibly productive because counsel pooled their knowledge and resources to come up with lists of potentially relevant soldiers.

[52] As a result of the above exercises, the core or target group from whom statements would be sought developed through the course of the inquest and was not a closed group. Initially comprising 60 military witnesses, the group increased to 127 from whom statements were taken during the inquest. This meant that various statements came in during the course of the inquest but I consider that this was a fair and proper approach. Given that the inquest lasted for 100 sitting days (extending over the course of a year), everyone was able to adapt to the statements coming in on a parallel basis. In other words, I started the inquest whilst this parallel process of obtaining additional information was ongoing. The core or target group was augmented by reference to the questionnaire responses and an ongoing review of the materials available to me on a regular basis. I appreciate that this was a novel approach but it seemed necessary to me to meet the justice of the case and to get the case heard but also to try to get best information on an ongoing basis.

[53] I fully engaged the MoD and counsel for the next of kin in this exercise and I developed as effective a process as I could of identifying soldiers from the relevant battalions. It is of course right to say that some people may have been missed but I consider that the process I undertook was proportionate within the reasonable timeframes and having exhausted all other avenues. It should also be noted that this inquest was widely publicised and repeated requests were made for all witnesses to come forward. I was asked to consider at various stages the use of a tracing agency.

However, in my view, that was not going to solve the foundational problem of missing cipher lists. In fact, through the efforts of counsel, many additional witnesses were identified through the course of the inquest and were verified as being present through P files. Ultimately, while the process I adopted may not have been perfect, I considered at a certain stage that I had done all I could to trace witnesses who were in Northern Ireland and Ballymurphy at the relevant time.

[54] I commend the Coroners Service for undertaking this extensive work upon receipt of the various strands of information to obtain accounts from military witnesses for the purposes of this hearing. As I have said, this was a collaborative exercise: the Coroners Service and the coroner's legal representatives engaged fully with next of kin and MoD representatives to ensure to the greatest extent possible that relevant military evidence was obtained for these inquests.

[55] As a result of the above exercise, the inquest heard from a much larger number of military witnesses than might at one stage have been anticipated. A small number of witnesses did not ultimately attend, which is unfortunate, however I have proceeded to make my findings without their attendance. In particular I mention two military witnesses, who reside outside Northern Ireland. They are M57 who may have had something to say about Incident 2 and M171 who may have had something to say about Incident 4. I made every effort available to me to secure the attendance of those witnesses, including the obtaining of a subpoena pursuant to Section 67 of the Judicature Act (Northern Ireland) 1978. Following their initial default, a further date was set for their attendance, but they did not comply.

[56] Therefore I have not had the opportunity to hear from these witnesses which is unfortunate. I cannot be sure what those witnesses might have said at the inquest under questioning and of the precise extent to which they may have been in a position to assist me in examining the deaths. It is clear that neither wishes to cooperate and therein lies the difficulty as pursuant to the rules I cannot compel them to provide evidence to the inquest in this jurisdiction. Having now had the

opportunity to consider all of the evidence I have proceeded to give my findings rather than delay indefinitely for these and other potential witnesses to cooperate.

[57] It is important to stress that my powers as a Coroner are limited in relation to potential witnesses who reside outside the jurisdiction of Northern Ireland. The power to require evidence from a person in Northern Ireland is found in sections 17A and 17B of the Coroners Act (Northern Ireland) 1959. Section 17A contains a specific power to require evidence to be given or produced and a notice may be issued to that effect which must be complied with unless revoked or varied. A person failing, without reasonable excuse, to comply with a notice can be subject to a fine.

[58] Where the witness resides in the United Kingdom but outside Northern Ireland, the coroner can seek to obtain a subpoena pursuant to Section 67 of the Judicature Act (Northern Ireland) 1978. As I have said, I did this in the case of M57 and M171 and the necessary applications were granted by another High Court Judge. Following the failure of the witnesses to attend, the Coroners Service requested that certificates of default be issued by the High Court in Belfast in accordance with section 67(5) of the 1978 Act. The certificates were duly granted, leave was obtained to transmit the certificates to the High Court in London and the certificates were duly transmitted. That is the current position.

[59] During the course of the inquest I was also made aware of material circulated by some veterans suggesting that military witnesses should not cooperate and put the coroner's letters "in the bin." That was most unfortunate because it could potentially mean that some relevant military points have not been made. Flowing from this there was one issue of social media comment which I referred to the Attorney General however happily no other action needed to be taken in relation to this as an apology was given and the actions were not repeated.

[60] The flip side of this is that many military witnesses did come forward and I thank them for that as I have been able to consider their testimony. In some of the incidents I have not had a full military account and I have had to proceed on that basis as I allowed ample time for relevant witnesses to come forward. I did not see that it was purposeful or proportionate to delay this case further.

IV. LEGAL CONSIDERATIONS

[61] In Northern Ireland inquests are governed by the Coroners Act (Northern Ireland) 1959. Section 14 frames this inquest because it has been heard on the direction of the Attorney General. Section 14(1) states:

“Where the Attorney General has reason to believe that a deceased person has died in circumstances which in his opinion make the holding of an inquest advisable he may direct any coroner (whether or not he is the coroner for the district in which the death has occurred) to conduct an inquest into the death of that person, and that coroner shall proceed to conduct an inquest in accordance with the provisions of this Act (and as if, not being the coroner for the district in which the death occurred, he were such coroner) whether or not he or any other coroner has viewed the body, made any inquiry or investigation, held any inquest into or done any other act in connection with the death.”

[62] The rules governing coronial proceedings are contained within the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963. Rule 15 states that the proceedings and evidence at an inquest shall be directed solely to ascertaining the following matters, namely: (a) who the deceased was; (b) how, when and where the deceased came by his death; (c) the particulars for the time being required by the

Births and Deaths Registration Acts (Northern Ireland) 1863 to 1956 to be registered concerning the death. Rule 16 states that neither the coroner nor the jury shall express any opinion on questions of criminal or civil liability or on any matters other than those referred to in Rule 15, provided that nothing in Rule 16 shall preclude the coroner or the jury from making a recommendation designed to prevent the recurrence of fatalities similar to that in respect of which the inquest is being held.

[63] I have heard this case without a jury and I am empowered to do that by virtue of Section 18(2) of the Coroners Act. This was by agreement of the next of kin, the Ministry of Defence and the Police Service of Northern Ireland.

[64] In addition to the domestic legislation inquests are also subject to the European Convention on Human Rights ("ECHR") which is part of the law of the United Kingdom by virtue of the Human Rights Act 1998. In particular, Article 2 of the Convention provides:

"1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which the penalty is provided by law."

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.”

[65] The ECHR has had a significant effect upon the conduct of inquests. In addition to the substantive effect of Article 2, there is also a clear procedural obligation upon coroners to make sure that an inquest is Convention compliant. This is explained in cases starting with *McCann v United Kingdom* [1995] 21 EHRR 97 which highlighted the procedural obligation on the State to carry out an effective official investigation into the circumstances of the deaths. Within this procedural obligation there are additional duties to consider planning and control and protection against real and immediate risks to life. An Article 2 compliant inquest must examine the how, why, where and by what means a death came about but also “in what broad circumstances” it occurred: see *R (Middleton) v West Somerset Coroner* [2004] 2 AC 182.

[66] The requirements of an Article 2 compliant investigation were considered by the Strasbourg Court in *Jordan v UK* [2003] 37 EHRR 2 and in *Nachova & others v Bulgaria* [2006] 42 EHRR 43. As a result of the decision of the Supreme Court in *In the Matter of an application by Brigid McCaughey and another for Judicial Review* [2011] UKSC, those procedural requirements must be adhered to in this inquest notwithstanding that the deaths preceded the coming into effect in this jurisdiction of the Human Rights Act 1998. In this jurisdiction, Stephens LJ has summarised the relevant principles in *Jordan* [2014] NIQB 11 as follows (at paragraph [78]):

- (a) The essential purpose of an investigation is “to secure the effective implementation of the domestic laws which protect the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility.”

- (b) The form of such an investigation may vary in different circumstances. The Strasbourg Court did not specify in any detail which procedures the authorities should adopt in providing for the proper examination of the circumstances of a killing by State agents. The aims of fact finding, criminal investigation and prosecution can be carried out or shared between several authorities, as in Northern Ireland, and the requirements of Article 2 may nonetheless be satisfied if, while seeking to take into account other legitimate interests such as national security or the protection of material relevant to other investigations, they provide for the necessary safeguards in an accessible and effective manner. However, the available procedures have to strike the right balance.
- (c) Whatever mode of investigation is employed, the authorities must act of their own motion, once the matter has come to their attention. They cannot leave it to the initiative of the next of kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedures.
- (d) For an investigation into alleged unlawful killing by State agents to be effective, it may generally be regarded as necessary for the persons responsible for and carrying out the investigation to be independent from those implicated in the events. This means not only a lack of hierarchical or institutional connection but also a practical independence. That in order for the investigation to be effective, “the persons responsible for and carrying out the investigation must be independent and impartial, in law and in practice” (paragraph 112 of *Nachova*).
- (e) The investigation is also to be effective in the sense that it is *capable of leading to a determination* of whether the force used in such cases was or was not justified in the circumstances and to the identification and punishment of those responsible. This is not an obligation of result, but of means. The authorities must have taken the reasonable steps available to them to secure

the evidence concerning the incident, including *inter alia* eye witness testimony, forensic evidence and, where appropriate, an autopsy which provides a complete and accurate record of injury and an objective analysis of clinical findings, including the cause of death. Any deficiency in the investigation which undermines its ability to establish the cause of death or the person or persons responsible will risk falling foul of this standard. (emphasis added)

- (f) A requirement of promptness and reasonable expedition is implicit. It must be accepted that there may be obstacles or difficulties which prevent progress in an investigation in a particular situation. However, a prompt response by the authorities in investigating a use of lethal force may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts.
- (g) There must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory. The degree of public scrutiny required may well vary from case to case.
- (h) In all cases the next of kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests. In respect of this matter I would add that the next of kin must be involved regardless as to their personal circumstances or attributes.

[67] To this comprehensive and instructive summary of principle provided by Stephens LJ I would simply add another point which is this : legacy inquests in Northern Ireland should be conducted in a proportionate way. The Coroner must decide what enquiries are required to answer the core questions, with reference to *inter alia* the scope of the inquest, the feasibility of the investigation, and the need to conclude investigations of a historical nature within a reasonable time.

[68] The inquest also has to reach conclusions on major issues canvassed at the inquest: *R v Her Majesty's Coroner for the Western District of Somerset ex parte Middleton* [2004] UKHL 10, at paragraph [18]. One of the functions of the inquest is to allay rumour and suspicion: *In the Matter of an Application for Judicial Review by Siobhan Ramsbottom* [2009] NIQB 55, at paragraph [11]. Also, the evidence at the inquest may range more widely than the verdict or findings: *Jordan v Lord Chancellor* [2007] UKHL 14, at paragraph [37].

[69] In practical terms, there will be cases where, no matter how thoroughly all relevant primary evidence is secured and available and then comprehensively examined, including by the examination of witnesses (publicly and with the involvement of the next of kin), it is difficult to reach a clear conclusion as to what has occurred or for instance whether the use of lethal force was justified. This might arise by virtue of a lack of evidence or by reason of a conflict of evidence which is simply impossible to resolve decisively one way or the other. The European Court of Human Rights has recognised that “there may be cases where the facts surrounding a deprivation of life are clear and undisputed and the subsequent inquisitorial examination may legitimately be reduced to a minimum formality”; but that, “equally, there may be other cases, where a victim dies in circumstances which are unclear” (see *Taylor, Crampton, Gibson and King v United Kingdom* [1994] 79-A DR 127 at 136). The jury verdict questionnaire in the inquest in relation to the death of Jean Charles de Menezes, in England and Wales, included provision for a jury response to each question that they “cannot decide” (2/417-419). The obligation on the State is not to provide a particular result in a given case but to provide a system of investigation which is capable in principle of giving rise to clear findings where they are warranted by the evidence.

[70] In *Jordan* [2018] NICA 6, the Court of Appeal recognised that whilst a coroner must strive to reach findings, it may not be possible, and if that is explained, the inquest verdict is lawful in a particular case. The court referred to the decision in

Coroner for the Birmingham Inquest v Julie Hambleton and others [2018] EWCA Civ 2018 and reiterated the difference between other proceedings and inquests. In summary, the court found at paragraph 112:

“The obligation on a coroner in an inquest under Section 31 of the Coroners Act (Northern Ireland) 1959 is confined to setting forth in his verdict particulars so far as such particulars have been proven to him.

The statutory obligation on the coroner is to consider whether a particular fact has not been proved on the balance of probabilities. This must also involve consideration as to whether the coroner is undecided as to whether the particulars did or did not occur. In this way the decision is not as between one or two possible outcomes that is the particular did occur or the particular did not occur, but includes the third possible outcome in which the coroner states that he is undecided or, as in this case, profoundly unsure as to whether it did or did not occur. We agree with the coroner that it was not and could not be said to be a binary decision and we consider that the coroner was positively obliged to consider the third possible outcome as to whether he was undecided provided that he gave his reasons for being undecided. We conclude that insofar as any particular was not proved to him his verdict represented the proper discharge, rather than the abrogation of Section 31 of the Coroners Act 1959.”

[71] In *R v South London Coroner ex parte Thompson* [1982] 126 SJ 625 Lord Lane CJ also referred to the nature of inquest proceedings when he said:

“... it should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends, the judge holding the balance or the reins whichever metaphor one chooses to use.”

[72] In *R (Amin) v Secretary of State for the Home Department* [2003] UKHL 51 Lord Bingham expressed the purpose as follows:

“... to ensure so far as possible that the full facts are brought to light; that culpable and discreditable conduct is exposed and brought to public notice; that suspicion of deliberate wrongdoing (if unjustified) is allayed; that dangerous practices and procedures are rectified; and that those who have lost their relative may at least have the satisfaction of knowing that lessons learned from his death may save the lives of others.”

[73] The standard of proof in inquests has come to the fore in this case but it has helpfully been clarified by the Supreme Court in the recent decision of *R (On the application of Maughan) v Her Majesty's Senior Coroner for Oxfordshire* [2020] UKSC 46. This appeal arose out of the death of a person in prison by suicide. Of note at the

outset is the fact that the court considered the use of narrative conclusions as follows at paragraph 8:

“Longer, more judgemental narrative conclusions, as used by the coroner’s jury in this case, are relatively new. They result from the recent transformation of many inquests from the traditional inquiry into a suspicious death into an investigation which is to elicit the facts about what happened, and in appropriate cases identify lessons to be learnt for the future. This is the position in inquests which the state is now required to carry out because of the European Convention on Human Rights. Article 2 of the Convention protects the right to life. One of the consequences of this is that there must generally be an effective investigation of deaths which occur while a person is in the custody of the state (“state-related deaths”), and one of the ways in which this obligation may be discharged is by holding a coroner’s inquest, in which the next of kin of the deceased can participate. The relevant principles of domestic law have been established by decisions of the courts, including, in particular, the decision of the House of Lords in *R (Middleton) v West Somerset Coroner* [2004] UKHL 10.”

[74] The *Maughan* case arose in the context of a jury inquest, the applicable rules in England and Wales (which date from 2013) and the guidance of the Chief Coroner. Whilst *Maughan* was a suicide case the court also looked at the issue in the context of unlawful killing. The court recognised the changing role of inquests and changing societal attitudes and expectations which confirmed the need to review the standard of proof in the case of suicide. The court also considered whether the criminal standard should be retained for the issue of unlawful killing. It decided against that

argument drawing upon authority from the civil field including family law: *Re H (Minor) (Sexual Abuse: Standard of Proof)* [1996] AC 563 and *Re B (Children) (Children Proceedings: Standard of Proof)* [2008] UKHL 35. The Supreme Court said that:

“Those cases make it clear that there is not a sliding scale of probability to be applied, commensurate with the seriousness of the subject-matter or the consequences of the decision. The only question is whether something is more likely than not to have happened.” (See *Braganza v BP Shipping Ltd* [2015] 1 WLR 1661)

[75] This issue had been examined by the Northern Ireland Court of Appeal by Stephens LJ in the case of *Jordan* [2018] NICA 34. In that case, which was an application for leave to apply for judicial review of a coroner’s ruling, the court considered the standard of proof as the balance of probabilities and there was no argument to the contrary. Post *Maughan* Morgan LCJ has said that the civil standard applies in *Hura Steponaviciene* [2020] NICA 6. In that case the LCJ referred to the issue as follows:

“[7] It was submitted that Maughan was wrongly decided but the learned trial judge in his careful judgment rejected that submission. Maughan was appealed to the Court of Appeal and eventually to the Supreme Court [2020] UKSC 46). By a majority the Supreme Court decided that the standard of proof in a coroner’s inquest on the question of suicide or unlawful killing was the balance of probabilities.

[8] Suicide requires proof and should not be presumed. That principle was supported by all of the Justices. There is, however, no basis upon which this

court could distinguish this case or fail to follow this binding authority from the Supreme Court despite the persuasive judgment in dissent by Lord Kerr with whom Lord Reed agreed. Accordingly, it must follow that the appeal should be dismissed.”

[76] I have also considered this issue in the *McElhone* inquest. In that case I said that I considered myself bound by these decisions and previous judicial decisions in Northern Ireland which apply the civil standard of proof to inquests of this nature. It is also worth restating the fact that the law in Northern Ireland does not provide for a verdict of unlawful killing unlike England and Wales. I have received some further submissions on the point which I have considered. In the submissions of the MoD I am invited to apply a criminal standard of proof however I am not attracted to that argument given the cases I have already referenced and because of the nature of the inquest.

[77] The civil standard of proof is very much tied to the nature of an inquest as it is not a criminal trial and should never be thought to be. The outcome of an inquest may have serious consequences but whatever that may be it is not a criminal conviction or a finding of civil liability. In *Serious Organised Crime Agency v Gale* [2011] UKSC 49 the Supreme Court held that the application of the ordinary civil standard of proof in relation to allegations of criminal conduct in civil recovery proceedings is compatible with Article 6(2) of the ECHR. In this case there is no argument before me that the process is not itself Convention compliant. So, I reject the suggestion that the criminal standard should apply and I have applied the civil standard in this inquisitorial process.

[78] Given the nature of these proceedings there is no formal burden of proof, save that when Article 2 is engaged there is an onus on the State to establish that the use of lethal force is justified. In *Jordan* [2018] NICA 34 the Court of Appeal referred (at paragraph [116]) to the coroner’s acknowledgement of this obligation upon the

“State in general and the police in particular” to provide a satisfactory and convincing explanation on the balance of probabilities to justify the death of the deceased. The State thus “bears the burden of adducing evidence to provide a convincing explanation for the killing under Article 2.”

[79] In relation to the use of force Section 3 of the Criminal Law Act (Northern Ireland) 1967 provides:

“(1) A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.”

[80] The use of force is also governed by the common law defence of self-defence. In *Beckford v The Queen* [1988] AC 130 Lord Griffith said:

“... the test to be applied for self-defence is that a person may use such force as is reasonable in the circumstances as he honestly believes them to be in defence of himself or others.”

[81] In *Armani Da Silva v UK* (Application No. 587808), the European Court addressed the question of whether the domestic UK law governing self-defence conformed to the requirements of Article 2 of the ECHR and found in summary that the domestic law in terms of the use of force in self-defence was compliant with Article 2.

[82] In *Jordan Horner J* summed up the test to be applied in that case (which involved the use of lethal force by police) as follows:

“[187] Accordingly, the task for this inquest in conducting an Article 2 complaint inquest must be to ask whether Sergeant A had an honest and genuine belief that it was necessary for him to open fire. Whether that belief was subjectively reasonable, having regard to the circumstances pertaining at the time, is relevant to the question of whether it was honestly held. I should not examine A’s belief from the position of a detached observer but from a subjective position consistent with the circumstances in which he found himself and which will necessarily also involve taking into account his training, experience and his knowledge and awareness of the RUC Code of Conduct. I have to consider whether his decision to open fire was “absolutely necessary.” To put it another way, whether in all the circumstances it was proportionate, that is “reasonable, having regard to what the person honestly and genuinely believed.”

[83] In addition to the legal issues I have set out there is an obvious issue in this type of case about the cogency of evidence given that these events occurred 50 years ago. Girvan LJ highlighted this in the context of historical sexual abuse in *R v JW* [2013] NICA 6 when he said:

“[14] What has been said in the context of the prejudice created by delay in the context of civil litigation applies with even greater force in the context of criminal proceedings for the outcome of criminal proceedings may subject the defendant to potentially severe penal consequences and to extensive damage to his private life and reputation. In *Birkett v James* [1978] AC 297 in the

context of a civil case of alleged want of prosecution

Lord Salmon said:

‘When cases (as they often do) depend predominantly on the recollection of witnesses, delay can be most prejudicial to defendants and to the plaintiff also. Witnesses recollections grow dim with the passage of time and the evidence of honest men differs sharply on the relevant facts. In some cases it is impossible for justice to be done because of the extreme difficulty in deciding which version of the facts is to be preferred.’”

[84] In this series of inquests I have been mindful of these issues. I understand that people may have a false memory of events or a memory of events which is coloured by a narrative that is part and parcel of the community consciousness. A witness may have a vision of events which the witness thinks is entirely accurate but in fact has been recreated from various different memories. This case has also been the subject of media debate in the past and other information sources and that may have coloured evidence. So the frailties of memory and the frailties of historical evidence are something I bear in mind. What is also obvious is that witnesses have come forth who are trying their best to help but may in fact be asked to piece together matters that they really do not know anything about.

[85] In addition to the oral evidence there are contemporaneous accounts. It will be apparent that I have taken into account contemporaneous records and relied upon them in some of the circumstances. There is no bright line rule in relation to this because I am mindful that contemporaneous accounts may have been fabricated or have been part of propaganda or inaccurate. However, they may also provide the most authentic account from some witnesses given that they were made at the time.

With all of this in mind I have analysed all sources of evidence in these inquests to try to piece together as accurate a picture as possible.

V. RULES OF ENGAGEMENT AND RULES FOR INVESTIGATION AT THE RELEVANT TIME

[86] I have also considered the rules of engagement at the particular time. These are comprised in what is known as the Yellow Card. At the outset I bear in mind that these were guidelines, created pre the Human Rights Act 1998 and are not a binding legal code. The Yellow Card was a set of instructions to the military on the circumstances in which it would be appropriate to open fire. During the evidence various military witnesses referred to this as an important document which they kept on their person, often in their uniform in a pocket, and it was guidance which would have been explained to the soldiers at the outset. The military witnesses told me that realistically they would not be opening the Yellow Card whilst out on operational duties but they were to a man familiar with its contents and understanding of its main precepts.

[87] It became apparent during the inquest that several versions of this document were issued throughout the time that the military were deployed in Northern Ireland. The version that appears to have been in existence at the time of the Ballymurphy deaths is dated January 1971 and is attached hereto at **Annex 0.4**. As will be seen from this the card was entitled "HQ Northern Ireland Instructions for Opening Fire in Northern Ireland." It was issued by the Director of Operations and it provided instructions on the resort to force, namely that the use of force should be the minimum necessary to enable soldiers to carry out their duties. The card also gave instructions on warnings before fire. The card included specific instructions on when a soldier may fire against a person with a firearm, or a petrol bomber, or a person attacking property. Essentially, the soldier was required to act in an appropriate manner and was only permitted to open fire if it was felt in the circumstances that his life was under threat.

[88] At the time at which the deaths at Ballymurphy occurred, post-incident investigative procedures were subject to an agreement made in 1970 between the Chief Constable of the RUC and the General Officer Commanding of the British Army in Northern Ireland. There was a Force Order in existence at the time which effectively allowed the Royal Military Police to have command of investigations rather than the RUC. This was superseded by a further Force Order in 1973. I enclose both Force Orders in the schedule attached hereto at **Annex 0.5**. The applicable Force Order from 1970 was entitled "Instructions regarding Complaints against Military Personnel." The instructions stated:

"Where a Complaint involving Military personnel is received by the police the following instructions will be complied with:

- (1) A report will be made immediately to the Commander of the Division concerned who will obtain, or cause to be obtained, statements from the complainant and any civilian or police witness involved and will investigate any criminal aspect of the matter.
- (2) On completion of the police investigation, the Divisional Commander will forward the police report to the Royal Corps of Military Police, who will interview and obtain statements from Military personnel involved or who can assist in the investigation ..."

[89] In this case the accounts of soldiers following the deaths were gathered by the RMP and not by the RUC. This practice was subsequently criticised by the then

Lord Chief Justice Lord Lowry, who said in 1974 (in the Court of Appeal judgment in *R v Foxford* [1974] NI 171 at 180): “we deprecate this curtailment of the function of the police and hope that the practice will not be revived.” This issue of the military personnel investigating other military personnel was also criticised in *Re Marie Thompson’s Application for Judicial Review* [2003] NIQB 80. I bear this in mind, but I have received the material produced by those investigations in evidence and have assessed that material as appropriate in conjunction with all other evidence in the case, having regard to the investigative and procedural obligations of Article 2 ECHR as outlined above.

VI. CONCLUSION

[90] I have applied the legal tests set out above to the evidence which I have considered and I have reached findings which I explain in narrative form in relation to each death. I thank all legal representatives, court staff, media, families of the deceased and witnesses for their assistance during this inquest. What follows are my narrative findings in each case.

ANNEX

INTRODUCTION

- 0.1 Coroner's public statement
- 0.2 Examples of anonymity and screening decisions
- 0.3 Examples of excusal applications
- 0.4 Yellow Card January 1971
- 0.5 Force Orders relating to post-incident investigative procedures

0.1 Coroner's public statement

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Judicial Communications Office

13 November 2018

STATEMENT MADE BY PRESIDING CORONER MRS JUSTICE KEEGAN

It is very clear that yesterday marked an important day for all of those present in court, given that we started these inquests and we have now heard the opening and some of the family statements. I am grateful to the family members who have prepared the statements and come to court. That can't have been easy to do. I will hear the remaining family statements during the remainder of this week and next Thursday.

I have reflected on some of the matters that have been raised in relation to progress of the inquests. You have already heard through the course of the opening that further work is ongoing. However I do want to formally record that it is a credit to all involved in these inquests, including the parties, the legal representatives and the witnesses who have come forward, that the cases have been ready to commence this week.

These cases go back a considerable period of time as we all know. Looking back at my records the families in the cases met with the Lord Chief Justice and previous Presiding Coroners in February 2016 and at that stage no date was set for an inquest. So, we have moved on.

Some issues have been raised by counsel about those who will be giving evidence. I have listened to that and reflected on this over lunchtime.

It is important to state that all of those involved with these incidents which occurred in Ballymurphy in August 1971 have an interest in having the facts surrounding these events established in court at the inquests.

As Mr Doran in his opening pointed out, there are a number of narratives in relation to what occurred and I, as the Coroner want to hear all of the evidence in relation to this that might be relevant to the proceedings.

All those who have information or who may have information also have an obligation to co-operate with these inquests. I want to re-state that position today as we embark upon these inquests. I am concerned therefore to hear that there may be difficulties. I have read the media reports that Mr Mansfield provided to me and I thank him for drawing them to my attention. These are of concern because the issue has been raised before and I asked that correspondence be sent by the Ministry of Defence and I understand that it was. So I am concerned that this has come back at what is clearly a critical time in these inquests.

I want to remind everyone that co-operation is key to my role. Also, as Mr Doran has pointed out, if people refuse to co-operate I have the power to subpoena witnesses. I can also draw an adverse inference if someone refuses to co-operate or furnish the court with

Judicial Communications Office

evidence they may have in their possession. That has already been set out in correspondence but it is important that I put this fact on the record today.

It is also not permissible for people to discourage those who might have relevant information to come forward. As I have said I want to hear all of the evidence to make an informed decision about the very important issues that I have to decide as part and parcel of these inquests.

NOTES TO EDITORS

This press release 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:

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0.2 Examples of anonymity and screening decisions

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Annex 0.2

Inquest into the deaths at Ballymurphy, August 1971

Anonymity and Screening Applications Soldiers M152, M249, M170, M270, M226, M154, M118

Provisional Ruling, 4th February 2019

KEEGAN J

[1] I have received eight applications on behalf of the military witnesses M152, M249, M170, M270, M154 and M118 who are due to give evidence at the inquest in the coming weeks.

[2] The applications all request relief from (a) to (f) of paragraph 1, broadly that is anonymity and screening and other associated protections.

[3] Various common documents are provided in support of all of the applications;

- (i) Police recorded security situation statistics 1 June 2017 to 31 May 2018.
- (ii) List of terrorist incidents in Northern Ireland since January 2011.
- (iii) An extract from the House of the Oireachtas of the Garda Commissioner, 11 November 2015
- (iv) An extract from the Northern Ireland Affairs Committee, 25 October 2017
- (iv) A report of the Independent Reviewer, Justice and Security (NI) Act 2007, dated April 2018.
- (v) An extract from the Guardian newspaper re Republican dissident terror threat level in Britain.

[4] In addition I have read personal statements from the witnesses, threat assessments and in some cases medical evidence. I note that some of the witnesses refer to the recent activity of dissident republican terrorists.

[5] I have read the legal submission presented in support of the applications which deal with Article 2 of the ECHR and common law. I previously considered the main authorities in this area in relation to another application; *Re Officer L* UKHL 36, *Regina (T) v West Yorkshire (Western Area), Senior Coroner* [2018] 2 WLR 211, *Re C and Others* [2012] NICA 47, *Rabone v Pennine Care NHS Trust* [2012] UKSC 2. Of course

each case is fact sensitive and so I have been careful to apply the law to the specific facts of this case.

[6] As I have said before in dealing with this type of application, I start from the position that an application of this nature represents derogation from the principle of open justice and the need for transparency in these proceedings. I also bear in mind that the proceedings must be effective, particularly as regards participation of the next of kin. In addition, there is a particular context to this inquest. It comes 47 years after events which have high public profile and which clearly engender strong feelings in the community some of which are directed against the British Army. The overriding objective is to proceed with this inquest and have as effective a process as possible in those circumstances.

[7] *Re C* (which considered *Re L*) does not require extensive repetition as it is the leading authority in Northern Ireland on anonymity and screening and is binding upon me. The question which needs to be asked when considering the engagement of Article 2 is to whether the evidence before the Coroner establishes a real risk to life that is neither fanciful nor trivial and that is present or will be present, if a particular course of action is or is not taken. I bear in mind the unique circumstances in Northern Ireland and the threat which pertains, see paragraph [43] of the judgment of Girvan LJ. I also bear in mind the contextual references in paragraph [74] of this judgement. This case dealt with police officers but in my view the sentiments have equal application to the situation of military witnesses in the exceptional facts of this high profile and controversial case.

[8] In each case the threat is described as low in the threat assessments. They also state that "should M be denied the benefit of anonymity at the Ballymurphy Inquest the threat to M while in NI from dissident republicans could potentially rise above the low threat band." It also states that "whilst the threat to M in GB also has the potential to increase should anonymity at the inquest be denied, the current assessment is that it is unlikely to rise above the low threat band." I understand that this remains the position.

[9] In a previous application concerns were expressed regarding the wording of the threat assessment and so I have applied particularly anxious scrutiny to this issue. I note that the threat assessments are couched in terms that they could *potentially* rise. In truth that is probably the most that can be said given the uncertain nature of what might transpire in evidence.

M152

[10] I note that M152 is retired and resides in Northern Ireland. In his personal statement he says that "I would consider myself extremely vulnerable to an attack by paramilitaries due to the nature of my role in both the Armed Forces and the Northern Ireland Prison Service if my identity was known." He refers to the fact that in the late 1980's he was forced to leave his home due to a paramilitary threat

and he was subject to a general threat whilst working in the prison service. The medical report refers to an increased risk of high blood pressure. In my view Article 2 is engaged in this case and so anonymity and screening should be provided. This applicant also satisfies the common law tests.

M249

[11] M249 is retired and living in the UK. He says that he has not visited Northern Ireland due to ongoing concerns regarding security. He refers to the fact that his daughter has a sister in law who lives in Northern Ireland. He refers to the fact that several years ago she was forced to leave her home due to threats because her brother was identified as a serving officer in the army. He states that "my ongoing worries regarding my personal security have been further heightened with the recent bomb explosion outside the courthouse in Derry on the 19 January 2019." In my view Article 2 is engaged in this case and so anonymity and screening should be provided. This applicant also satisfies the common law tests.

M170

[12] M170 is retired living in the UK. He states that he considers that he and his family are "extremely vulnerable to an attack" due to his former career within the armed forces. He states that "the possible threat of attack from dissident paramilitaries remains a real and serious concern to me." M170 also refers to the fact that he underwent surgery for a cyst that developed on his brain and he has mobility problems and high blood pressure. M170 attaches a letter from his GP and states that he is "particularly concerned that the possibility of my identity being made public will have an adverse effect upon my health and wellbeing." In my view Article 2 is engaged in this case and so anonymity and screening should be provided. This applicant also satisfies the common law tests.

M270

[13] M270 is retired and living in the UK. He refers to a previous experience when giving evidence at an inquest when he did not have the benefit of screening. He states that since receiving notification of having to come and give evidence that "I have been unable to sleep properly and my appetite has been affected. Further, I have been having traumatic flashbacks to events. He states that he does not wish to talk to his GP about this as he does not want anyone to know about his military background." In my view Article 2 is engaged in this case and so anonymity and screening should be provided. This applicant also satisfies the common law tests.

M226

[14] I have not received any personal statement from M226. I cannot consider an application such as this without evidence. This may be an oversight but if not I will allow 1 week for further evidence to be provided.

M154

[15] M 154 is retired and living in the UK. He states that he maintains connections in Northern Ireland due to a sailing pastime. He states that he is concerned that "the stress of having to attend will adversely affect both my health and wellbeing and that of my wife". No medical evidence is provided. I will allow 1 week for that at which stage I will adjudicate upon this application.

M118

[16] M 118 is retired and lives in the UK. He states that he held the role of chaplain, was well known and has worked with the army extensively until 2002. He states that one member of his family continues to serve in the army. He also refers to a medical diagnosis of ME he has and prostate cancer. He says that he wife suffers from heart problems and is partially sighted. He argues that refusal of the application would have a negative effect upon his health and wellbeing and that of his wife. A GP letter is filed in support. In my view Article 2 is engaged in this case and so anonymity and screening should be provided. This applicant also satisfies the common law tests.

[17] The above is my provisional ruling. I will allow all parties to address me on Thursday morning in relation to this if they wish to do so.

Inquest into the deaths at Ballymurphy, August 1971

Anonymity and Screening Applications Soldiers M152, M249, M170, M270, M226, M154, M118

Ruling, 28th February 2019

KEEGAN J

[1] I issued a preliminary ruling on 5th February 2019 in relation to applications on behalf of the military witnesses M152, M249, M170, M270, M226, M154 and M118 who are due to give evidence at the inquest in the coming weeks. The representatives of the next of kin provided written submissions. On 7th February 2019 I heard oral submissions from counsel for the next of kin and counsel for military personnel. I record that the next of kin have raised an objection to my provisional ruling granting anonymity and screening. There was however no issue raised about the legal principles that I applied in particular the Court of Appeal ruling in *RE C and others* (2012) NICA 47. I will therefore not repeat what I said in my provisional ruling as to the law.

[2] Counsel for the next of kin referred me to the fact that these measures represented derogations from natural justice and offend openness and transparency. I referred to that principle in my provisional ruling and I appreciate the strength of it. Counsel also argued that the threat in these cases was so low and remote that Article 2 was not engaged. They referred to the fact that there is no evidence of a witness ever being threatened or attacked. They also highlighted the fact that these witnesses do not have a pivotal role in events. They pointed out that any medical issues could be facilitated by assurance or support measures. Finally, counsel stressed that a proportionate course needed to be adopted and so if I maintained my provisional ruling the witnesses should not be screened from the families. Counsel for the MoD agreed with my provisional ruling.

[3] In reaching my conclusion I have reflected on the argument that the threat level is described as low however in my view it is sufficient that this could potentially rise. Also, the fact that nothing has happened to military personnel in the past does not mean that something could happen in the future. In this regard I bear in mind recent events in Northern Ireland and the nature and profile of this inquest. Having considered all of the above I am satisfied that Article 2 is engaged in each of these cases and it follows that the bare minimum of anonymity should be afforded to all of these applicants. If I am wrong about that I consider that anonymity should be granted on the facts of these cases as a common law protection.

[4] The next question is whether I should also allow screening in each case on the basis of Article 2 and/ or common law. I understand where anonymity has been granted, the risk to the witness is alleviated to an extent and any additional risk may be too remote. I must also bear in mind that anonymity may be undermined if

screening is not provided. I have anxiously considered this taking into account the need to act in a proportionate manner and having re-examined the individual circumstances of each case. I have also considered the medical evidence provided in some of the cases. My conclusions are therefore as follows.

[5] In relation to M152, M170 and M118 - I maintain my provisional ruling regarding screening as it is a proportionate response given the circumstances of each applicant supported by evidence.

[6] In relation to M249, M270 the personal averments are also sufficiently strong to merit screening and so I confirm my provisional ruling

[7] In relation to M226 - I have now received a personal statement. Anonymity is granted. I will allow 1 week for any additional evidence to be provided before I decide on screening.

[8] In relation to M154 - Anonymity is granted. I have not received any medical evidence as directed. This must be provided within 1 week before I decide on screening.

[9] Two other applications have come in recently namely those regarding M45, M97. My provisional ruling is to allow screening and anonymity in each of these cases. I will allow the next of kin to make any representations on these and any other cases going forward if they wish to do so having acknowledged their objection in principle to all of these applications.

[10] Where I allow for screening I entirely agree with the next of kin that in each case they should have the opportunity to view the witness. Therefore, the screening will be adapted to facilitate the full participation of the next of kin.

[11] Counsel should discuss the other ancillary measures and consequential orders which I trust are capable of agreement and which should provide reassurance to the witnesses attending court.

[12] I hope that there can be purposeful discussion of these applications going forward because a large number of military witnesses are scheduled to give evidence in the coming weeks. I am also conscious that counsel for the next of kin informed me that some of the military witnesses are not pivotal or are peripheral. Following from this helpful observation I encourage counsel to have a discussion about how best to facilitate this evidence going forward (one suggestion I have is that we could maybe utilise a video link in some cases). Or, if there are witnesses who, on a consideration of their statement, will not realistically be in a position to assist the inquest they could be dealt with by way of Rule 17.

[13] Finally, I stress that all of these matters will be kept under review in these proceedings.

Inquest into the death of Edward Doherty, 10th August 1971

Anonymity and Screening Application Soldier M3

Provisional Ruling, 23rd November 2018

KEEGAN J

[1] I have received an application dated 16 November 2018 on behalf of a military witness known as M3 who is due to give evidence before this inquest in the week after next.

[2] The application requests relief from (a) to (f) of paragraph 1, broadly that is anonymity and screening and other associated protections.

[3] Various documents are provided in support namely at Annex 1.

- (i) Police recorded security situation statistics.
- (ii) Policing matters, Garda Commissioner extract.
- (iii) An extract from the NI Affairs Committee.
- (iv) A report of the Independent Reviewer, Justice and Security Act 2007, dated April 2018.
- (v) An extract from the Guardian newspaper re Republican dissident terror threat level in Britain.
- (vi) A personal statement of witness M3.
- (vii) A threat assessment.
- (viii) Some medical statements/letters dated 20/11/18 – provided to me on the morning of hearing, 22/11/18.

[4] I have also had the benefit of written legal submissions on behalf of the applicant and from the next of kin. I have considered a file of authorities provided by the next of kin which contains the following cases; *Re Officer L* UKHL 36, *Regina (T) v West Yorkshire (Western Area), Senior Coroner* [2018] 2 WLR 211, *Re C and Others* [2012] NICA 47, *Rabone v Pennine Care NHS Trust* [2012] UKSC 2. Of course each case is fact sensitive and so I have been careful to apply the law to the specific facts of this case.

[5] There was no apparent dispute in relation to the law in this area. I start from the position that an application of this nature represents derogation from the principle of open justice and the need for transparency in these proceedings. I also

bear in mind that the proceedings must be effective, particularly as regards participation of the next of kin.

[6] In reaching my conclusion I have taken into account the following facts which I extract from the materials:

- (i) The applicant is a retired soldier living in GB.
- (ii) In his personal statement he has set out his subjective fears of a risk to his life and his family. At paragraph 6 of his statement he says that: "I fear for my own safety and the safety of my family from attack both during and after the inquest. As a result of this process my wife has already asked for measures to be taken to increase the security around our home. I live on a quiet street and my house is easily accessible from the road."
- (iii) The threat assessment is framed as low however it states that "should M3 be denied the benefit of anonymity at the B/M inquest the threat to M3 while in Northern Ireland from dissident Republicans could potentially rise above the low threat band."
- (iv) This soldier has accepted his involvement in the death of Mr Doherty but the circumstances surrounding that are highly contentious, likely to be controversial and have been and will be subject to intense scrutiny and interest in the media. In his personal statement at paragraph 9 the witness says of the threat assessment that it..."takes no account of the fact that emotions can be expected to rise as the inquests progress, particularly in the light of the recent cinema release of a documentary on Ballymurphy deaths, which was subsequently released as a Channel 4 television documentary." He states that a reconstruction of the incident he was involved in the documentary does not accord with his account and that he considers that "the version portrayed is highly inflammatory and must have the effect of raising the potential threat to me. There is already significant media coverage both locally and nationally. I understand that there may be further media coverage during the inquest and at its conclusion, including information put on the internet which would always be there. He concludes by stating; "As far as I know, I am the only soldier who has stated that I discharged my firearm in a fatal incident which is the subject of this inquest and this factor must be of particular interest to the media I fear that this status will make me a particular target."
- (v) The applicant describes himself as disabled and the medical now filed sets out that he was a chronic demyelinating disorder of the nervous system (similar to the effects of multiple sclerosis). He has chronic pain and mobility problems requiring him to use two sticks and for longer

distances he may require a wheelchair. He is reported as having high blood pressure and is taking a range of medications. In his personal statement he says that he may need breaks during the proceedings.

- (vi) A medical statement in relation to the applicant's wife states that she has a history of heart failure and COPD and that she was on the palliative care register but was removed in April 2017. This states that her husband is her main carer and also that "I feel that any increased stress that M may be placed under would undoubtedly impact on her mental and physical health."

[7] In addition, there is a particular context to this inquest. It comes 47 years after events which have high public profile and which clearly engender strong feelings in the community some of which are directed against the British Army. There are a number of narratives which have to be considered which were outlined in the opening to the inquest. After all of the efforts to set up this inquest it is still faced with challenges including a perceived failure of military witnesses to come forward. The overriding objective is to proceed with this inquest and have as effective a process as possible in those circumstances.

[8] *Re C* (which considered *Re L*) does not require extensive repetition as it is the leading authority in Northern Ireland on anonymity and screening and is binding upon me. The question which needs to be asked when considering the engagement of Article 2 is to whether the evidence before the Coroner establishes a real risk to life that is neither fanciful nor trivial and that is present or will be present, if a particular course of action is or is not taken. I bear in mind the unique circumstances in Northern Ireland and the threat which pertains, see paragraph [43] of the judgment of Girvan LJ. I also bear in mind the contextual references in paragraph [74] of this judgement. This case dealt with police officers but in my view the sentiments have equal application to the situation of military witnesses in the exceptional facts of this high profile and controversial case.

[9] I understand the concerns already expressed regarding the wording of the threat assessment and I have applied particularly anxious scrutiny to this issue. I note that the threat is couched in terms that it could *potentially* rise. In truth that is probably the most that can be said given the uncertain nature of what might transpire in evidence. What is clear is that the evidence of M3 is highly controversial and also that the applicant is in a unique position. Having considered the particular facts I am satisfied that there is a real risk which could potentially rise upon the giving of evidence at this inquest. The extent of that is incalculable but there is enough material to lead me to the view that it is not trivial or fanciful or not present. I am of the view that Article 2 is engaged and so the issue is what protective measures should be adopted in consequence.

[10] If I am wrong about Article 2 it seems to me that given the particular circumstances and context of this case and M3's personal circumstances and those of

his family the balance would fall in his favour in common law to have some protective measures put in place in fairness to him and to ensure the effective progress of this inquest.

[11] I have balanced the fact that this soldier has retired and is living in Great Britain and will return there. He has also partaken in a Panorama interview at the time of events but he says that is not widely publicised. Nonetheless, he was prepared to speak about events in the public gaze at that time. However, the issue must be judged as of today. And so, against these points I balance M3's particular circumstances which I have already referred to.

[12] In view of the above, I have concluded that the minimum degree of protection is appropriate namely anonymity. This is a ruling which on the particular facts of this case will be subject to ongoing review.

[13] On the basis of the evidence I am also of the view that if screening is not allowed it will undermine the grant of anonymity and that it is proportionate to protect against the risk to life. If I am wrong about that it is clear that M3's medical condition is something I am entitled to take into account at common law. The current medical evidence does not address the issue of the effect upon him of giving evidence. This is surprising and potentially prejudicial to M3. In fairness to him, I will allow any additional evidence to be filed by 12.00 noon Tuesday.

[14] I will also allow all parties to address me on Wednesday morning in relation to this provisional ruling if they wish to do so.

[15] A final word. This is the first of a number of anticipated applications of this nature I will have to deal with. I am concerned that a practice has emerged that they are brought very late in the day and that documents are illegible or incomplete or filed late. That makes the judicial task all the more difficult. A better practice needs to be developed going forward.

0.3 Examples of excusal applications

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M12 - Company Commander of 2 Para Support Company (Incident 1)

M12 was diagnosed in September 2017 with probable Alzheimer's type dementia. An opinion was provided by a Consultant Psychiatrist which concluded that M12 retained capacity to provide written and oral evidence subject to special measures and a reassessment prior to providing oral evidence. Written statements were recorded with appropriate support in September 2018 and November 2018. The witness indicated his willingness to co-operate further by agreeing to attend to give oral evidence.

An updated medical assessment based upon a physical and mental state examination was provided in February 2019, in advance of oral evidence. His condition had deteriorated from September 2017 to an extent that reliable oral evidence could not be provided, even if special measures were to be adopted.

Given the importance of the witness and the progressive nature of his condition, a relevant GP report was disclosed in order to provide reassurance around the basis for the expert medical assessment provided. (Somewhat uniquely, the medical expert's identity had been initially been redacted. It was later provided to allow for a proper assessment to be made of relevant qualifications and expertise).

On the basis of the expert evidence and GP report the witness was medically excused from providing oral evidence.

M1011 - 2 Para B Coy - possibly Soldier B (Incident 2)

M1011 was an important witness from whom written and oral evidence would be required. M1011 applied for excusal from giving evidence orally or in writing.

Two disaccordng expert opinions were received. Both experts gave evidence which led to a degree of consensus. The excusal application was refused, however, in

recognising the medical vulnerabilities of the witness, it was directed that a short, concise statement be taken, focusing on a number of specific matters regarding the death of four civilians in Incident 2. These matters were outlined in a series of questions to be put to the witness.

The witness subsequently felt unable, even with the assistance of a psychiatrist and legal representation, to assist the Coroner. Further medical evidence addressing a deterioration of his condition was provided. In the circumstances it was decided that the issuing of a subpoena would be disproportionate – the excusal application was granted with the caveat that the failure to answer questions would be taken into consideration when weighing up the evidence.

M206 - 2 Para Support Coy, Anti-Tank Platoon (Incident 1)

M206 applied for excusal from providing evidence. The excusal application was refused.

Similar to M1011, the Coroner acknowledged the medical vulnerabilities of the witness and directed that a short, concise statement be taken, focusing on a number of specific matters. After the statement was recorded, the witness indicated he felt able to provide oral evidence. In recognition of the medical vulnerabilities of the witness, the Coroner ensured that he was afforded regular breaks during the course of providing oral evidence. He was also supported throughout by his legal representative.

M151 - CSM 2 Para B Coy (Incident 2)

M151 provided a written statement in question-and-answer format recorded with appropriate support for his hearing and eyesight impairments. The Coroner also ensured that appropriate measures were in place to accommodate M151's diagnosis

of mild cognitive impairment. Medical opinion indicated the witness had mental capacity to engage in the process of providing oral evidence.

Special measures including video link, large font documents, along with legal and family support were in place for the witness to provide oral evidence. Shortly into his evidence it became apparent the witness was not able to adequately comprehend the questions being asked, resulting in his evidence being halted. The Coroner allowed for the preparation of a set of questions to be put to the witness in a more relaxed atmosphere with appropriate support mechanisms in place.

Unfortunately, subsequent correspondence from the witness's family indicated he was not fit to assist the inquest any further – there was no objection to the Coroner medically excusing the witness from any further participation in the Inquest.

M167 - 1 Para C Coy, 9 Platoon (Incident 4)

M167 was excused from giving oral evidence on the basis of medical evidence indicating that to do so would greatly risk exacerbating a serious existing medical condition. Special measures to support the giving of oral testimony would not have provided sufficient mitigation of the risk.

The witness had forwarded a pre-prepared written statement to the Coroner. Further medical opinion approved the provision of questions for the witness to answer, with appropriate support in a neutral environment. In the end, none of the interested persons felt this course of action would supplement, in any meaningful way, the evidence from M167 already available to the Coroner.



0.4 Yellow Card January 1971

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Action by guests and at each check/checks

- 13 The warnings are called for Day should be in the SWB at specific check-ins, as set out in paragraphs 14 and 15.
- 14 If you have to CHARGE a check, who is sitting next to you must do so in a SWB. EXACT WORDS: "HALT—HANDS UP". Then:
 - a. If he tells you are to stay "STAND STILL AND KEEP YOUR HANDS UP".
 - b. See how who he is there and, if not satisfied, call your Commander immediately and hand the action over to him.
- 15 If the driver does not call at once you are to challenge each saying "HALT—HANDS UP" and if the person does not halt on your second challenge, you are to call your weapon out in the safety zone and shout "STAND STILL I AM READY TO FIRE."
- 16 The rules covered the driver while in charging to are described in paragraph 111. If the circumstances do not allow opening fire you, all do what you can to stop and warn the person without opening fire.
- 17 At a road block/check you will NOT fire as a warning shot because it is illegal to shoot. If a vehicle does not halt at a road block/check, use its description, state registration number and direction of travel.
- 18 In all circumstances where you have challenged and the response is not satisfactory, you will surrender your Commission at the first opportunity.

Approved January 1971

RESTRICTED

RESTRICTED

Instructions by the Director of Operations for Opening Fire in Northern Ireland

- 1 These instructions are for the guidance of Commanders and troops opening collectively or individually when troops are operating collectively and are not to be used when engaged in the SWB by the Commander or the troop.

General Rules

- 2 Never use more force than the minimum necessary to enable you to carry out your duties.
- 3 Always try to handle a situation by other means than opening fire. If you have to fire:
 - a. Fire only aimed single shot.
 - b. Do not fire more rounds than are absolutely necessary to subdue your gun.
- 4 Your magazine must always be loaded with the ammunition used by SWB in the SWB but unless you are about to open fire no live rounds are to be carried in the breach and the loading point must be forward.

Warning before firing

- 1 A warning must always be given before you open fire. The only circumstances in which you may open fire without giving warning are described in para 14 below.
- 2 A warning should be as loud as possible, preferably by loudspeaker, if available.
 - a. Give clear warning to stop attacking or to halt, as appropriate.
 - b. State that fire will be opened if the warning is not obeyed.

You may fire after this warning

7. Against a person carrying a firearm, but only if you have reason to think that he is about to use it for offensive purposes

and

he refuses to halt when called upon to do so, and there is no other way of stopping him.

8. Against a person throwing a petrol bomb if petrol bomb attacks continue in your area against troops and civilians, or against property, if the action is likely to endanger life.

9. Against a person attacking or destroying property or stealing firearms or explosives, if his action is likely to endanger life.

10. Against a person who, though he is not at present attacking you

- a. in your sight killed or seriously injured a member of the security forces or a person whom it is your duty to protect

and

- b. not halted when called upon to do so and cannot be arrested by any other means.

11. If there is no other way to protect yourself or those whom it is your duty to protect from the danger of being killed or seriously injured.

You may fire without warning

12. Either when hostile firing is taking place in your area, and a warning is impracticable, or when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself and GOC only:

- a. against a person using a firearm against members of the security forces or people whom it is your duty to protect

or

- b. against a person carrying a firearm if you have reason to think he is about to use it for offensive purposes.
Note: "Firearm" includes a grenade.

0.5 Force Orders relating to post-incident investigative procedures

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Royal Ulster Constabulary

For Police Use Only

C.277

148/70

8.9.70

HQ Ref.

122

Force Order No.

Date

Div Ref.

Part 1

Part I.

Cancelled per P.O. 131/73

Instructions regarding Complaints against Military Personnel

Where a complaint involving Military personnel is received by the police the following instructions will be complied with:-

- (1) A report will be made immediately to the Commander of the Division concerned who will obtain, or cause to be obtained, statements from the complainant and any civilian or police witness involved and will investigate any criminal aspect of the matter.
- (2) On completion of the police investigation, the Divisional Commander will forward the police report to the Royal Corps of Military Police, who will interview and obtain statements from Military personnel involved or who can assist in the investigation. When this work will have been completed the R.C.M.P. will return the papers, which will include the Military report, to the Divisional Commander.
- (3) The Divisional Commander will consider the matter and if he decides that criminal proceedings will be instituted he will notify the complainant without disclosing any particulars which should not be made public before the court hearing. At the termination of such proceedings, or when he decides that such proceedings will not be instituted, the Divisional Commander will return the papers to the R.C.M.P. for such action as the Military Authorities may deem necessary.
- (4) Decisions by the Military to take disciplinary proceedings, result of proceedings, decision to take no proceedings, etc., will be notified by the R.C.M.P. to the complainant and the Divisional Commander.

Should there be a series of complaints following a particular military operation, special joint police and military arrangements will operate.

W. H. WILLIAMS

Assistant Chief Constable 'A'

Distribution: All Chief Superintendents, Superintendents, Offices, Stations and Departments.

Index Entries: "C"- Complaints involving Military personnel
"I"- Military personnel, complaints involving

See Part I 26/74 26.2.74 Cancelled
: : : 50/74 : 24.6.74
: : : 33/75 : 13.3.75

Royal Ulster Constabulary

For Police Use Only

*Look See 35/22-46
Comm.*

H.Q. Ref. C89

Force Order No. 131/73

Date 27th
September
1973

Div. Ref. 9

Part I

per Pt. III 167/76

INSTRUCTION REGARDING INVESTIGATION OF ALLEGED OR SUSPECTED OFFENCES BY MILITARY PERSONNEL

With a view to improving methods of recording, investigating, and reporting on alleged or suspected offences by Military Personnel whether on or off duty, and to facilitate the expeditious submission of the case file, the following requirements are to be met:-

- I The proper co-ordination of RUC/RMP investigations with an RUC member responsible from the outset and throughout the investigation.
- II The RUC/RMP to interview soldiers as proper co-ordinated investigation requires; suspects to be interviewed as such.
- III Adequate police (RUC/RMP) comments on the veracity and reliability of military and civilian witnesses to assist in the assessment of the case and as to the cogency and sufficiency of the evidence.
- IV Investigation files to be submitted expeditiously to the Director of Public Prosecutions.

To fulfil these requirements the following instructions will be complied with:

- (i) The member of the RUC who receives a complaint or allegation that a soldier has committed a criminal offence will immediately complete a Complaint Form - copy attached. Sufficient copies are being distributed to all Stations.
- (ii) If the complainant or person making the allegation is present he will record that person's statement and attach a copy to the Complaint Form.
- (iii) The completed Complaint Form, together with copy statement if any, will be given to the person-in-charge of the Station.
- (iv) The person-in-charge will inform immediately per phone the Divisional Commander of the complaint/allegation and forward to him the Complaint Form and copy statement, if any.
- (v) The person-in-charge will immediately inform per phone the RMP. In Divisions A - M and P and R the RMP Duty NCO at Lisburn 5111 ext 2214 or 2547 will be informed. In Divisions N and O the RMP Duty NCO at Londonderry 4142 will be informed.
- (vi) RMP will report immediately to the appropriate RUC Division whenever evidence tending to disclose the commission of a criminal offence is discovered in cases which they are investigating. RMP will similarly report all cases of shooting incidents in which civilian casualties occur. Such a report from RMP will be duly recorded on a Complaint Form by the person receiving such a report.

- (vii) Upon receiving a report as provided for by Paragraphs iv and vi above, the Divisional Commander will instruct a member of the RUC to take charge of investigations and be responsible for preparing and furnishing an Investigation File with supporting statements.

When detailing either a member of the CID or uniformed officer to take charge of an investigation the Divisional Commander will take into account the seriousness of the offence alleged.

Shooting incidents resulting in death or injury, or serious assaults should be investigated by a member of the CID.

RMP personnel on permanent attachment to RUC CID should not be employed in lieu of RUC on the investigation of cases involving the Military personnel.

- (viii) In all cases involving Military personnel, other than minor traffic accidents and trivial complaints of a non-criminal nature, RMP will assign an investigational team to report to the RUC Station concerned and work with the RUC personnel assigned to the case.

It is important that cases should be pursued without delay; where in any instalment RUC personnel are not immediately available, RMP will commence the investigation but will at the first opportunity communicate with the member of the RUC who has been assigned by the Divisional Commander to take charge of the investigation and will inform him of the steps which they have taken.

- (ix) The RUC member in charge of the investigation will insure that the alleged or suspected offence is investigated with all despatch, that all the statements are properly taken, and, if relevant, medical evidence obtained, due regard being given to the points set out at i, ii, iii and iv above.

- (x) In the case of shooting incidents involving civilian casualties, statements obtained from the soldiers involved will first have the soldier's particulars expurgated from their statements by RMP before being circulated.

These particulars will not be divulged by RMP unless and until such time as the Director of Public Prosecutions requires the names of soldier(s) for the purpose of directing a prosecution.

In any case where it appears to the RUC investigator that a question of security may be involved, he will liaise with the officer commanding 178 Provost Company (Investigators) with a view to avoiding unnecessary breaches of security.

- (xi) In all serious cases including shooting incidents involving civilian casualties Military suspects/firers must be interviewed by a member of the CID, and the RMP will make the appropriate arrangements for this to be done.

per Part III 182/73
Otherwise, however, interviews may be conducted by whichever member of the joint investigation team the RUC member in charge of the investigation considers appropriate. ~~Whilst it will be usual for RUC to interview civilian witnesses and for RMP to interview soldier witnesses~~ There is no bar to RUC members interviewing soldiers and no bar to RMP interviewing civilians.

- (xii) Irrespective of the ~~(contents of RUC Code Regulation 696(6))~~ *Provisions of the A.U.C. (Discipline and Disciplinary Appeals) Regulations 1977* RUC and RMP investigators will freely exchange all evidence and information obtained during the course of an investigation at the earliest opportunity. The senior RMP investigator in each case will submit to his Company Commander for transmission to the Divisional Commander, RUC, his report based on the evidence obtained. *Sch 1 para 1*

This report will be sent to the RUC member in charge of the investigation for inclusion in the RUC Case File.

Force Order Part I 131/73

- (xiii) Should any difficulties arise with regard to the conduct of joint RUC/RMP inquiries, RUC officers should contact the Officer Commanding 178 Provost Company (Investigations) on Lisburn 5111 ext 2256.
- (xiv) On completion of inquiries an investigation file will be prepared and furnished in accordance with the instruction re papers for directions of the Director of Public Prosecutions by the RUC member in charge of the case to his Divisional Commander.
- (xv) The Divisional Commander will consider the matter and will forward the file to this Headquarters giving his recommendations. The file will be sent to the Director of Public Prosecutions for his direction.
- (xvi) The Divisional Commander will cause the decision of the Director of Public Prosecutions to be communicated to the person who made the initial complaint or allegation.

Force Order, Part 1, No 148/70 of 8 September 1970[✓] is hereby cancelled.

Distribution/

All Chief Officers, Chief Superintendents, Superintendents, Offices, Stations and Departments.
Director of Public Prosecutions - 8 copies
RPM Headquarters NI - 6 copies

Index Entries/

- ✓'I' - Instructions regarding alleged or suspected offences by Military Personnel.
- ✓'M' - Military Personnel - Instructions regarding investigation of alleged or suspected offences by.
- ✓'O' - Offences, alleged or suspected by Military Personnel - Instructions regarding investigation of.

Amended per Part I 135/73 ~~§~~
Amended per Part III 182/73. ~~§~~

COMPLAINTS AGAINST ARMY

COMPLAINANT'S NAME			
COMPLAINANT'S ADDRESS			
BY WHOM RECEIVED	Name	Rank	Reg No
MEDIUM OF COMPLAINT (LETTER, TELEPHONE or PERSONAL) DATE and TIME			
DATE, TIME and PLACE OF ALLEGED OCCURRENCE			
NATURE OF OCCURRENCE (ATTACH COPY OF STATEMENT OR ORIGINAL LETTER, IF APPLICABLE)			
NAME OF ALLEGED OFFENDER(S), IF KNOWN			
CRIMINAL CHARGE(S) IF ALREADY PREFERRED DATE OF HEARING, IF KNOWN			
RMP INFORMED	Date	Time	Name of RMP representative informed

Divisional Commander

Submitted. *Letter of Complaint/Copy of Statement/Copy of Acknowledgment attached.

*Delete as necessary

Person-in-Charge Rank Reg No

Neutral Citation No: [2021] NICoroner 6

Ref: KEE11476

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 11/05/2021

IN THE MATTER OF THE CORONERS ACT (NORTHERN IRELAND) 1959

IN THE MATTER OF A SERIES OF DEATHS THAT OCCURRED IN
AUGUST 1971 AT BALLYMURPHY, WEST BELFAST

INCIDENT 5
THE DEATH OF MR JOHN McKERR

CORE ABBREVIATIONS USED IN THIS INQUEST:

MoD:	Ministry of Defence
HET:	Historical Enquiries Team
IRA:	Irish Republican Army
SLR:	Self-Loading Rifle
CCRIO:	Central Criminal Records and Information Office
RVH:	Royal Victoria Hospital
APC/Saracen:	A Six-wheeled Armoured Personnel Carrier

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I. INTRODUCTION

[1] This is an account of the evidence and my conclusions and verdict. I have considered all of the evidence heard between 15 and 20 December 2018 and additional evidence heard on 12 June 2019. I have also considered all of the papers and the written submissions of counsel. This text does not recount each and every aspect of the voluminous material I have considered and so it should not be assumed that where some detail is not specifically mentioned I have not considered it. I have considered the totality of the evidence in reaching my findings.

[2] In the introductory chapter I set out the law governing inquests in Northern Ireland which I have applied. I have heard this inquest as a judge sitting as a coroner without a jury, with the agreement of all parties. I have kept in mind the investigative obligation imposed by Article 2 of the European Convention on Human Rights. I have applied the balance of probabilities as the standard of proof. As I also said in the introductory section, the standard of proof is one thing but the state of cogency of the evidence is another as this case relates to events 50 years ago. The court is mindful that memory is affected by the passage of time and so accounts must be examined carefully before findings can be made. In accordance with my obligations in law I have, upon assessing all of the evidence I have seen and heard, tried to reach a verdict on the core issues. Where I have not been able to reach a conclusion I have explained why.

[3] Mr John McKerr was 49 years old at the date of his death. He was a father of eight. He had been a soldier with the Royal Engineers. At the time when he died in 1971, Mr McKerr lived with his wife and four of his children and two grandchildren at 26 Andersonstown Park West, Belfast.

[4] On the morning of 11 August 1971 Mr McKerr was carrying out minor repair works at Corpus Christi Church where he was employed as a joiner by P&F

McDonnell Ltd. He was shot that morning and taken to the Royal Victoria Hospital ("RVH"). He had told his family he might stay with the priest due to trouble in the area and the curfew and so his family only realised he was shot the next day. Mr McKerr survived in hospital for a short time but he died of his injuries on 20 August 1971.

[5] An inquest took place on 25 May 1972 and reached an open death verdict. In correspondence of 6 September 2011 the Attorney General referred this case for a further inquest and in doing so he wrote as follows:

"I note that the Police report concerning Mr McKerr's death which is on the coroners file states that 'Mr McKerr was shot in the head by a sniper.' It is notable that, despite the fact that the army were in the area of Ballymurphy Road at the time of the shooting, there is no indication that any enquiries were made with military personnel concerning Mr McKerr's death. It is, I think, significant that the coroners file contains no statement from any military witness and there is therefore no evidence that the possibility that Mr McKerr was killed by military personnel was seriously contemplated, much less properly investigated.

I further take into account the fact that a number of members of the public have given accounts of having witnessed a soldier apparently firing from the area of the junction of Ballymurphy Road and Westrock Drive towards the area of Corpus Christi Church and that these witnesses are available to give evidence to the inquest.

Having taken into the account the above matters, and in particular the apparent lack of investigation of the possibility that Mr McKerr was shot by a soldier, I am of the opinion that the circumstances of Mr McKerr's death are such as to making the holding of an inquest advisable."

[6] The how, when and where of this death is not contentious. Rather this inquest has focussed on whether it can be established who shot Mr McKerr. His next of kin assert he was shot by the British Army either from a location at the junction of Westrock Drive and Ballymurphy Road or from Corry's Yard. The Ministry of Defence ("MoD") asserts that the core question cannot be determined.

[7] No military witnesses gave evidence to me about this death. However, a number of civilian witnesses did give evidence about what they observed at the relevant time. I also heard ballistics and pathology evidence which I will discuss in more detail. I had the benefit of engineering evidence from Mr Brian Murphy and also maps and 3D imaging of the area. Finally, I have been greatly assisted by the submissions of counsel for the next of kin and MoD.

II. SETTING THE SCENE

[8] This incident occurred at a time of upheaval in Northern Ireland. By 1971 the Troubles had been running for three years. Nearly one hundred people had died in the early part of 1971. Monday 9 August 1971 marked the introduction of internment and saw 342 people arrested across Northern Ireland. This resulted in civil unrest and further deaths. A Historical Enquiries Team ("HET") report, which has been made available in this inquest, states that:

"In the midst of this almost unbelievable violence, on the morning of Wednesday 11 August 1971, John McKerr

went to his place of work, Corpus Christi Church in Westrock Drive, West Belfast. The church had recently been built and was completed in June that year. Mr McKerr had been engaged in maintenance work since the completion and had continued to attend to his task even though the area is described at the time as being chaotic with constant gun battles taking place.”

[9] All of that said, on the morning in question there was a funeral in Corpus Christi for a young man, Michael O’Hare, who had drowned a few days before in the Falls Road baths. There are no particular reports of shooting in the area and there were pedestrians on the streets, some of whom were going to the funeral.

[10] To obtain a sense of the area in 1971 I have utilised maps and photographs, two of which are annexed to these findings to assist the reader. First a map of the area is reproduced courtesy of TBM consultants (**Annex 5.1**). This is an Ordnance Survey map from 1971 which shows Corpus Christi Church positioned off the Whiterock Road and the nearby Ballymurphy Road. Across from the church and beyond the houses in Westrock Drive is a large area unidentified on the map but known to us as Corry’s timber yard. Attention has been drawn to the gap between the houses at 73-95 Westrock Drive and Corry’s Yard. The focus of this case has been on the immediate vicinity of the church, Corry’s Yard and the junction of Ballymurphy/Whiterock Road. The houses are numbered in that area and can be seen on the map with a particular focus on numbers 67-72 and their back gardens, which are delineated on the map. The photograph also shows that there is a footpath in front of the church and railings. I also reproduce a contemporaneous photograph which shows the front of Corpus Christi Church in or around 1971, supplied by Mr John Teggart (**Annex 5. 2**).

[11] I have visited the scene and while it is changed I have been able to observe that this is an area of dense housing along a number of streets. Placed in the centre of this community was the church.

III. FAMILY TESTIMONIALS

[12] Before hearing the formal evidence Mr McKerr's family provided some personal testimonials. His daughters Anne Ferguson and Mo McKerr were able to do this. Ms Ferguson also made a formal statement which I refer to later. Mr McKerr was a married man and a father of eight. During the testimonial I heard about the pain this death has caused to the family and that this was exacerbated by how the family found out about the death in the newspaper and how they say there was misreporting about their father.

[13] The family highlighted Mr McKerr's military career, which they said he was proud of. He had been a member of the Royal Engineers. He had boxed for his regiment and he was a member of the Royal British Legion. The family also explained that Mr McKerr lost his right hand after sustaining an injury during World War II. For his work he used a stainless steel prosthesis which looked like a small hammer. The family said their objective was not punishment but the truth and they wanted to set the record straight about their father.

IV. PATHOLOGY

[14] An autopsy was carried out by Professor Marshall on 20 August 1971. Professor Marshall recorded the cause of death as:

“Laceration, bruising and oedema of the brain associated with fractures of the skull and complicated by meningitis due to a missile wound of the head.”

[15] Professor Marshall said that the character of the head wounds is consistent with a missile being a bullet. He said that other injuries found on the face and left hand were probably caused when he collapsed and that they were trivial, healing and of no consequence in the death. He also said:

“He had received a perforating missile wound of the head. The missile had entered the right side of the scalp just above and behind the right ear and it had left the head a few inches further forward having fractured the skull and torn a ragged area out of the right side of the brain.

There was an oval deficiency, 7x2½cm, horizontally on the right side above the ear. The posterior end was formed by part of a fairly neat hole, 8mm diameter with bevelling of the margins. The fracture in the inner table being the larger. From this hole, fractures extended into the anterior, middle and posterior fossae.”

[16] Further pathology evidence was obtained from Dr Swift (report of 20 May 2018) and Dr Cary (report of 15 October 2018). Helpfully, an agreed note was filed following a meeting of these two experts. This is dated 23 November 2018 and reads as follows:

“1(a) John James McKerr died as a result of complications arising from a single gunshot wound to the head.

(b) The wound behind the position of the right ear was the entrance wound.

- (c) The more forward placed wound to the right side of the head was the exit wound.
 - (d) It is agreed by both Dr Swift and Dr Cary that the appearance and internal description provided by Professor Marshall could have been caused by a single low or high velocity ballistic projectile.
2. Dr Swift and Dr Cary agree that it is not possible to indicate the position from which Mr McKerr was shot based upon the pathological findings.
 3. Dr Swift would also wish to correct an incomplete sentence within his report opinion number 3, a typo, the complete sentence should read "it is likely that he would have been rendered unconscious on impact with death ensuing rapidly in the absence of resuscitation and medical treatment."

[17] Professor Marshall confirmed that he had read this agreed note and he took no issue with it. In relation to a more specific view about positioning, Dr Cary observed:

"I agree with the simple proposition that it is not possible to indicate the position from which Mr McKerr was shot there being a wide range of possibilities in order to achieve both entrance and exit on the right side of the head. In relation to the witness evidence I would prefer to opine on any final view of the actual matrix once the evidence has been adduced and come up to proof."

[18] Thus, the pathologists agreed Mr McKerr was shot and died as a result of a gunshot wound which entered his head from behind around the right ear. They could not, perfectly understandably, say anything further about where this had come from.

V. *BALLISTICS*

[19] Three ballistics experts were called to give evidence, having submitted comprehensive reports to the court. They are Paul Olden, Anne Kiernan and Mark Mastaglio. Helpfully, an agreed note of this evidence was prepared which reads as follows:

- “(a) The wounds appear consistent with the entry and exit of a fired bullet or part of a bullet.

- (b) The projectile appears to have struck the right side of the head (slightly behind and above the ear) then exited from the head slightly further forward.

- (c) The single elongated hole found in the skull implies that the projectile had travelled tangentially (i.e. at a shallow angle) in relation to the skull’s surface at this site.

- (d) The report and images suggest that the bullet may have briefly passed through the skull to cause damage to the surface of the brain, before exiting. This would imply a slightly less shallow impact angle than would be the case if the bullet had not passed through the skull.

- (e) There is nothing in the report to suggest the presence of 'soot' or 'powder tattooing' around the entry wound. Although the presence of such features would indicate a shot fired from a very close distance, their apparent absence is of limited value given the surgical interpretation for this wound.
- (f) It is not possible to reliably assess whether the bullet had ricocheted or fragmented before striking Mr McKerr.
- (g) PO and MSM view - It is not possible to reliably assess whether the wound was caused by a 'high velocity' bullet such as that fired from a 7.62mm SLR (L1A1 rifle) or by a 'low velocity' bullet such as 9mm Parabellum.

AK view: Based on her practical experience of seeing tangential wounds to the head caused by high velocity bullets, the wound described by Professor Marshall and shown in the photograph (depicting the brain tissue damage) is most likely caused by a 'high velocity' bullet, such as that fired from a 7.62mm SLR, but is unlikely to have been caused by a 'low velocity' bullet such as a 9mm Parabellum.

- (h) From the wound ballistics it is not possible to make any useful assessment of the particular location of

Mr McKerr, or the firer when the shot was fired. Their relative locations cannot be usefully assessed without knowing which way Mr McKerr was facing, or the orientation of his head, when the shot was fired.”

[20] This note is extremely helpful but it also demonstrates the uncertainties that remain because of the inefficacy of the historical examination and the variables at play. The written evidence was complemented by substantial oral evidence from each of the three ballistics experts from which the following emerged. I start with Mr Olden who gave some extremely helpful evidence to me in a very comprehensible way. He explained that acoustic echo may account for people hearing numerous shots. He also simply explained the differences between high and low velocity injuries. In summary he said a 7.62mm bullet would come from a high velocity gun such as an Self Loading Rifle (“SLR”). A 9mm bullet from a low velocity gun such as a pistol or sub-machine gun. He was clear that 9mm was not consistent with an SLR.

[21] Mr Olden explained that different forms of ammunition have different energy. He explained the process of cavitation. In particular, he said this could come from high and low velocity weapons. He said two factors dictate the nature of a wound: the energy and the rate at which the energy is lost after striking through bone. With a rifle, he said the impact was high but after a short distance energy is lost causing cavitation.

[22] Mr Olden was extremely cautious about giving any firm view as to whether the wound was caused by a high or low velocity weapon. He said this was because the pathology evidence could not be more specific regarding the nature of the wound probably because the pictorial evidence came after surgical intervention.

[23] When pressed through questioning about where the shot may have come from, Mr Olden was also cautious given the variables at play.

[24] In terms of whether this was a ricochet or direct hit he said a neat wound would point more to a direct hit. He ruled out the 'smoking gun' description as did the other ballistic witnesses.

[25] Ms Kiernan was prepared to go further in her evidence regarding the high/low velocity debate. She said she based her opinion on her experience of examining wounds, particularly head wounds to soldiers in Iraq/Afghanistan. She also said that the handwritten pathology notes pointed her in the direction of this wound being sustained as a result of a high velocity weapon due to the damage to the brain. Ms Kiernan was also prepared to opine as to where the shot came from, effectively preferring the option of a soldier on the ground near the church rather than Corry's yard.

[26] Mr Mastaglio was clear that if Mr McKerr was walking normally and not turning his head, a shot from Corry's yard would not cause the injury. He thought there were too many variables to say whether it was a high or low velocity weapon. He did accept that it was more likely a direct shot than a ricochet.

[27] An important issue which all of the witnesses were questioned about was the position from where the shot came. It was put to each of them that the evidence suggested Mr McKerr was walking towards Westrock and away from the direction of the Ballymurphy Road. It was the consensus that if walking in that direction without moving his head he could not have been shot from Corry's yard and the bullet came from his rear right hand side given where it entered. So for the shot to have come from Corry's yard Mr McKerr would have had to turn his head some way around. Ms Kiernan also provided some sight lines from Corry's Yard through the gap in houses at 73-95 Westrock Drive, however all witnesses referred to the

unknown variables of the height of houses and walls associated with the houses at Westrock Drive.

VI. CIVILIAN EVIDENCE

[28] I received statements regarding identification of the body and other matters which are uncontroversial. One comes from Brian Patrick McKerr, Mr McKerr's son (now deceased). Also Detective Sergeant JD Wilson (also deceased). Both statements were admitted under Rule 17. Other such evidence was from Vernon Glover, the ambulance control operator, Constable Mounce, police mapper, DC Andrew Irwin, police investigating officer. This evidence was factual and confirmatory and non-controversial.

[29] Further details are found in William Carlisle's deposition, which was made for the original inquest on 25 May 1972. This statement gives a flavour of the scene on the day in question. He was stationed at Central Ambulance Depot, Broadway. He said that at 11:13 hours on 11 August 1971 he was dispatched to collect a shooting victim in Westrock Drive. He said that on approach "there were a number of small barricades in the area but we were able to get through them. While driving to Westrock Drive I heard shooting in the area."

[30] He then described taking the injured man away and he said that "we got in and out as quickly as possible because of the trouble."

[31] Elizabeth Thompson provided a deposition to the inquest in 1972 and she also gave evidence to me. Ms Thompson is a doctor and she described admittance to the RVH at 11.00 that day and subsequent treatment until she certified death on 20 August 1971 at 2:30am. Dr Thompson said Mr McKerr was admitted to intensive care at 12:45pm on the day in question.

[32] I now turn to the civilian evidence which has been presented in this inquest. There are eleven witnesses some of whom are deceased (Fr Harper, Maureen Heath) and so their evidence was admitted by way of Rule 17 and could not be tested. Other witnesses came to give evidence and one civilian witness was medically excused (Mr Connolly). The civilian accounts were not taken at the time, however they have emerged from a range of sources, principally interviews with Paul Mahon around 1999 and interviews by Laura McMahan for Relatives for Justice in and about 2010. It is also clear that some of the witnesses have been involved in community discussion of events.

[33] I bear in mind that only a fraction of this is contemporaneous. However, a stand-out piece of evidence is from the time. As will be apparent, it assists me in some respects. It is from Fr Harper, who was conducting the funeral in Corpus Christi Church when Mr McKerr was shot. Fr Harper is deceased and so his statement was read in by agreement. The salient parts of this evidence are as follows. In his statement, which was given in his deposition and presented to the coroner at the inquest in 1972, Fr Harper stated as follows:

“On Wednesday 11 August 1971 there was a funeral in the Church. I was conducting the Service. Mass was at 10am and the funeral service took place immediately after it. The remains were brought to the front door of the Church to be collected by the Undertaker, who was delayed on his arrival because of barricades in the streets. While waiting I spoke to John who had been working that day. After our conversation he left the Church. It was about 10:45am when John left. All the people at the service were waiting outside the Church for the arrival of the Undertaker. The last I saw of John was him walking through the people.”

[34] Fr Harper therefore said that the shooting took place after the funeral. In his deposition he said he heard two shots followed by two more cracks. He said "I don't know if the latter two cracks were shots or just echoes of the first two shots." He then described "complete panic" among the people gathered at the church. He described the difficulties in getting an ambulance after attending to the man spiritually. He did not recognise the man at the time and he concluded his statement by saying "I have no idea who shot him and it was only later I learned that the man shot was John McKerr."

[35] Fergal McDonnell filed a deposition for the original inquest and he also gave evidence to me. He confirmed that he employed Mr McKerr in August 1971 and on 5 August 1971 he was commissioned to Corpus Christi Church to carry out maintenance work. Mr McDonnell confirmed that on 10 August Mr McKerr phoned the office from the church to order material. He was told it would be delivered as soon as possible and the next thing Mr McDonnell heard was that Mr McKerr was shot and had died.

[36] In his statement for this inquest dated 18 September 2018 Mr McDonnell described Mr McKerr as an excellent joiner. He also pointed to the fact that John McKerr had a disability in that he did not have the lower part of one arm. He said that "when working John would've attached a specially made hammer to his arm. I have heard that whoever shot him thought he had something in his hand - I surmise it was in fact his hammer."

[37] Ms Sarah (Sheila) McCalliskey gave evidence. She did not make a statement at the time, which she said was because of the situation at that time that she was traumatised and that "no-one would believe me." Her first account was in 1999 to a researcher called Paul Mahon. She also provided a short undated written statement and then she made a statement to the Coroners Service of 28 May 2018.

[38] Ms McCalliskey was 25 at the time and said that she witnessed events in the following respects. She said a young man called Martin O'Hara had died by drowning so she was going to the funeral with her mother on the day in question. She walked along Westrock Drive to Corpus Christi Church. She said that there were a large number of paratroopers in the area. They had, she said, "put rubber bullets through windows and doors of people's homes" and subjected her grandfather to verbal abuse. She said that she heard shooting near/going into the church which she thought was from Corry's yard though she did not see it. She thought that it was the Army. She said the funeral could not get out of the Church because of the shooting.

[39] Ms McCalliskey did not actually see Mr McKerr being shot but she gave evidence to me that on making her way home she saw a soldier in the back garden of a house - she marked this on a map and identified the house as 69 Ballymurphy Drive. She said in evidence that the soldier was kneeling head down, with smoke coming out of his gun. She said that she called him a "murdering bastard" to which he made no reply. When asked to describe him she said she saw he was white and had dirty fair hair.

[40] Mr Francis Corr gave evidence to this inquest and referred to a number of sources of information as follows. He said he had first made a statement to the Frank Cahill Centre in the 1980s, although the written source material was not available. He also referred to speaking to people at the Sinn Fein Office, Falls Road, and at Corn Exchange. Again that material was not available. However, the first recorded interview is that of 5 November 2010 with Laura McMahan of counsel. A handwritten statement dated 8 December 2012 was also available. This was a statement taken by Mr Des J Doherty, solicitor. Finally, Mr Corr referred to two statements made to the Coroner's Investigators dated 8 May 2018 and 6 December 2018.

[41] In his evidence Mr Corr explained that he had moved into the area in 1970 and so he did not know many people at the time of these events. He said that he was walking from the Ballymurphy Road to Westrock Drive on the day in question. He said he was with his wife around lunchtime/early afternoon. He said that there was a man walking on the pavement near Corpus Christi Church who was unarmed, acting in a normal way. He said the man drew up alongside him and his wife and he heard a shot and the man fell. He said he grabbed his wife to run to the safety of an alleyway. In doing so he said he saw a black soldier in the garden of a house wearing a red beret which he associated with the Parachute Regiment. He said the soldier pointed his rifle at him. He could hear someone shout "murdering bastard" at the soldier. Then, he went to help Mr McKerr and he said he held his head.

[42] During the course of his evidence Mr Corr said that there was a black soldier and whilst he did not see him fire the shot at Mr McKerr he thought it might have come from Corry's yard as the Army were there and he had subsequently heard gossip to that effect. Mr Corr did not relate the shooting specifically to the funeral. When pressed during questioning, Mr Corr accepted that the soldier might have been camouflaged.

[43] When giving evidence Mr Corr was asked to mark a map and photos to give some idea of the positions. He marked the position of the soldier as at 67 Westrock Drive garden and his position and that of Mr McKerr down from the railings of the church at Westrock Drive. He also marked the soldier's position on a photograph. These markings differed slightly but broadly placed the soldier in Westrock Drive.

[44] Mr Corr said that he did not make a contemporaneous statement as he kept himself to himself. He said that he could give more detail in 2012 as he had been brought back to the location by those questioning him. Mr Corr had also witnessed other shootings of Father Mullan and Francis Quinn which are part of the Ballymurphy sequence.

[45] Eilish Meehan's evidence emanated from a statement provided to the Coroner's Investigator which is dated 24 September 2018. She did not make a statement at the time but she was interviewed by Paul Mahon in 1999 and the transcript of that was also provided. Ms Meehan is a witness to other events in the Ballymurphy sequence.

[46] In her evidence Ms Meehan explained that she was 19 years old at the time. She lived close to Corpus Christi Church at 17 Springhill Avenue which was at the top of the street facing the church. She said she went out to buy cigarettes at a shop on Westrock Drive. She knew Mr McKerr. She said she was walking behind him that day when she heard a shot and saw Mr McKerr fall. She assumed this shot came from Corry's yard. She did not recall seeing two other people on the pavement close to Mr McKerr. She saw no soldiers or armed personnel in the vicinity. Ms Meehan said she went into shock after the event. She gave some evidence also about the difficult circumstances at the time, including a cousin's home being ransacked and the presence of the Army on the street. Even at 47 years removed, Ms Meehan maintained that Mr McKerr's death "sticks out" although she could not be 100% precise about what happened.

[47] Robert Russell also gave evidence at the inquest having previously been interviewed about events and having filed statements as follows. At the outset it should be noted that Mr Russell accepted in his evidence that he was not well disposed to the British Army. He freely accepted that he had a criminal history and had escaped from the Maze prison during the Troubles.

[48] Mr Russell is the only witness who gave evidence that he directly witnessed the shooting of Mr McKerr. He said he was 13 years old at the time. When pressed as to why he had not given an account until 1999 he said he had kept his head down given the times they were in and his own brother had been shot two days before.

[49] In terms of his accounts of this event Mr Russell remembered events happening when the funeral cortege had actually left or was leaving Corpus Christi Church and was on the Westrock Drive. In essence he said he witnessed a black soldier on his hunkers with a rifle on the left hand corner of Westrock Drive. He said that there was another soldier in the road, an officer who had a side arm. He said when the officer spoke he said "shoot that bastard there" (slightly different wording from the interview). He said he saw a man locking up the gates of Corpus Christi Church after the funeral. The next thing he recalled was that the black soldier took aim and shot dead the man locking up the gates.

[50] There were inconsistencies in Mr Russell's accounts from 1999, 2010 and 2012 as to whether he actually saw the man fall or the aftermath. These became apparent during questioning. In evidence Mr Russell said that he did not actually see Mr McKerr fall. He said this confusion may have come from what a cousin told him. He did not remember seeing people walking near to Mr McKerr.

[51] During his evidence Mr Russell maintained that there were paratroopers on the streets in this area around Westrock Drive and Ballymurphy Road junction and that he had witnessed an incident at the home of a man called Tommy Irvine.

[52] A number of other witnesses provided statements or gave evidence about the scene and what was happening in the general area around the time that Mr McKerr was shot. One was Tommy Ireland. While this witness thought he had made a previous statement there was no evidence of this and so he relied on a statement provided to the Coroner's Investigator dated 13 November 2018. This witness said that on the morning of 11 August 1971 he left his home at 28 Rodney Drive around 8:00/8:45am to go to the funeral of his friend Martin O'Hare who had died. He was aged 21 at the time. He said that he did not know Mr McKerr but his father did. He said he was walking along Westrock Drive having taken a short cut known locally as the Giant's Foot. He was on his own. He said he was near some pre-fab bungalows when he heard someone say "get in, get in, get in" as there appeared to be shooting

coming from the right hand side from the direction of Corry's yard. He said that he went into the house of Tony Parker, having been warned to take shelter and he stayed there for about 20 minutes.

[53] This witness said that after this interlude he then walked along Westrock Drive towards Corpus Christi Church. He said it was eerily quiet. He said he heard one crack and a man fell outside the Church. In his statement he said "I don't know what direction the shot was fired from I would surmise it was Corry's yard based on what was said earlier."

[54] Mr Ireland then explained that he remembered a priest coming out to tend to the man and that there was a lady standing at her door facing the church who appeared to be watching the whole thing. He could not recall the lady tending to Mr McKerr. After this he said soldiers came in an armoured car and that there were two in particular he recalls who were standing one on the right one on the left. He went on into the church to the funeral.

[55] In his evidence Mr Ireland described seeing a wounded (gunshot to shoulder) youth about 15 years of age in the church. He said that the funeral was swift and he left without anyone walking with the coffin as everyone wanted to get away. He said by this stage Mr McKerr was away in an ambulance.

[56] I afforded another civilian witness anonymity and so he gave evidence under the cipher C2. He said that he had not made a statement before so his first account was that contained in the statement of 5 December 2018 to the Coroners Service. He was 24 at the time and he said he lived in the area in the home opposite 67 Ballymurphy Drive. He said he was upstairs in his own house looking out the window with his father. He said he had a perfect view of what was happening and in particular he recalled "Paras" across the road at No. 67 and No. 72. He said he knew the soldiers were Paras from the wings parachute emblems on their uniforms.

[57] In summary C2 said that “as we stood and watched, one of the soldiers at number 67 turned and faced the soldiers at number 72. He lifted his right arm and gave the thumbs up sign. Then there was a gun shot. I would say it sounded like a rifle shot, but I cannot be 100% sure.”

[58] C2 could not remember military vehicles in the area. He gave evidence that one of the soldiers who had been in number 72 was making his way up Westrock Drive when a priest came running and shouting at the soldier and an argument ensued. He did not see Mr McKerr.

[59] A witness, Paul Connolly, was excused from attending the inquest for medical reasons, however his statement was admitted in evidence. This is a statement of 8 November 2018 which exhibited a map and notes of an interview with Laura McMahon in 2010. He also filed a short statement of 18 December 2018.

[60] Mr Connolly was 23 years old in 1971. In his first account made in 2010 Mr Connolly recalled being at the front of his house at 91 Ballymurphy Road while the paratroopers were walking in formation down his street in the direction of Corpus Christi Church. He recalled seeing one paratrooper, a black man, take aim towards the entrance of the church and fire one shot. He stated that this soldier was at the front of an armoured vehicle which was parked at the end of his street. Mr Connolly later learned that John McKerr had been shot dead at the gates of the church. Mr Connolly stated that there were no gun shots preceding the soldiers’ actions. He stated that the soldier who fired the shot, and the others soldiers walking in formation, carried on walking down the street.

[61] In his statements to the Coroners Service Mr Connolly said that he did not know Mr McKerr. He also confirmed that his mother (Joan Connolly) had been shot two days before and his father was organising the funeral. He said that he was standing in the front garden of his home when he witnessed events. He said that the

soldier was black, 100 yards from his position and he was wearing a beret from the parachute regiment.

[62] A statement was admitted, along with associated documentary and video evidence, from Maureen Heath as she is now deceased. The evidence comprised a transcript of an interview with Paul Mahon dated 20 April 1999, a transcript of an account and You Tube video of this account given at an event at St Mary's College in August 2008, and a transcript of an interview between Mrs Heath and Laura McMahan of 17 August 2009. There is also mention of Charles Heath who was Mrs Heath's husband and who appears to have been with her at the time. However, this is effectively a joint account.

[63] Maureen Heath lived at 73 Westrock Drive in 1971. That address is right across from the church. In her interviews Ms Heath said that she heard a shot around 10am when she was putting on her coat to go out. She says she looked out the window and she saw Mr McKerr who she described as looking over, looking up towards Corry's yard. She said that at this point he was "coming up at the railings of the chapel here, by this opening here, Corry's Timber Yard went along here, I looked over and another shot rang out and the man just dropped flat on his face." She said he was on the pavement and she went over to help.

[64] Mrs Heath said that whilst attending to Mr McKerr there was "a big coloured soldier standing at the back of me with the gun just pointed."

[65] In her Mahon interview Mrs Heath referred to soldiers arriving after the ambulance and one soldier pointing his rifle at her. She then described having an altercation with an officer and being told to calm down as she was remonstrating that Mr McKerr needed help.

[66] In her final interview in 2010 Mrs Heath described Mr McKerr turning around after the first shot. When asked did she have any sense of where the shot came from

she said no. She also described his false arm as he had let her into the church to pray with others earlier that morning.

[67] Mr McKerr's daughter Anne Ferguson also gave evidence to this inquest. Her statement is dated 11 December 2018. In this Mrs Ferguson explained that her father had an army background in the Royal Engineers and that he lost his right hand in the course of that service.

[68] Ms Ferguson described the effect of the aftermath of events. She said that her mother worked at the Royal Victoria Hospital at the time and that was where her father was being treated. In particular she recalled that when her father was in the intensive care unit of the RVH "I spoke to a nurse on the ward and asked if my father was able to survive the wound. I recall that the nurse told me that it was hard to say and that they had removed a bullet which was given to the police." Mrs Ferguson explained how the family found out about her father's death from a newspaper article, the details of which were inaccurate. Mrs Ferguson said that a policeman apologised about this and said it was due to troubles and barricades in the area (Mrs Ferguson disputed this).

[69] Mrs Ferguson also said that around the time there was an article in the Belfast Telegraph saying Mr McKerr was attending an Irish Republican Army ("IRA") funeral when shot - she said this was particularly upsetting for the family and it was retracted, with a small published apology. She said that "my mother was very practical and when my father died his war pension stopped and she was struggling to bring the family up so she did not pursue an investigation and was of the opinion that it was in the hands of God now."

VII. ENGINEERING EVIDENCE

[70] Finally, I turn to the evidence of Mr Brian Murphy, Consulting Engineer. He gave helpful evidence as to the scene utilising Ordnance Survey maps and photographs.

[71] Mr Murphy's report is dated 19 October 2018, however he added to that after a site visit on 7 December 2018 following an initial visit to the site on 15 October 2018. In his report, by comparing the current topography and the Ordnance Survey plans from 1971 Mr Murphy summarised the similarities and differences in the locus by way of the following bullet points:

"Similarities

- The road layout of Ballymurphy Road is the same in terms of width, orientation and gradient.
- The houses in Ballymurphy Road are the same (particularly Nos. 91 and 69).
- The junction of Ballymurphy Road with Westrock Drive/Springhill Drive remains the same.
- The junction of Springhill Avenue with Springhill/Westrock Drive remains the same.
- The road layout of Springhill Avenue is essentially the same. (There is a new parking area outside the current Nos. 4 and 6 Springhill Avenue.)
- The boundary wall at Corry's Timber Yard is in the same place as before. Indeed, the breeze block construction would appear to be the original wall.

Differences

- Westrock Drive has been renamed Springhill Drive.
- A new road (with houses) has been introduced at Springhill Grove to the west of Corpus Christi Church.
- The original Corpus Christi Church has been demolished and rebuilt slightly to the north east of the original.
- New houses have been built in Springhill Avenue although the road layout remain substantially the same.
- The houses in Westrock Drive and Springhill Avenue have been replaced with more substantial buildings.
- There are houses at Sliabh Dubh View and Sliabh Glen in what was formerly Corry's Timber Yard. Access to this area is separate and from the Springfield Road."

[72] Mr Murphy then refers to various eye witness reports and at paragraph 6.4 he makes the following comments:

- “(a) A number of witnesses place their vantage point precisely. Mr Connolly was at 9 Ballymurphy Drive. Charlie and Maureen Heath were at 73 Westrock Drive and Mr Russell marked his position on a scale plan and mentioned he was 5 yards away from the gunman.
- (b) Other witnesses are not placed as precisely in the available information. Francis Corr was somewhere in the vicinity of the chapel railings on the Westrock Drive. Fr Harper ran to the deceased

on the footpath to the right of the gates of the church and tended to a man lying on the footpath on the same side as the church. Sheila McCalliskey had just come out of the church.

- (c) The lateral position of the deceased is not precise. A number of witnesses are clear that he was on the footpath near to the railing but not how far along the railings.
- (d) The position of Mr Connolly is removed from that of all the other witnesses who were placed in various positions in Westrock Drive.
- (e) Mr Corr is the only witness who places the gunman in a garden of a house. The house is presumably No. 69 Ballymurphy Road.
- (f) Frances Corr, Paul Connolly and Robert Russell all describe the gunman as being a black man. Sheila McCalliskey indicated that he was white whilst the Heaths do not address the colour of the gunman.
- (g) In interview Maureen Heath agreed with her interviewer that the deceased man was to her left as she looked out at Westrock Drive and from her vantage point at 73 Westrock Drive. This would seem to be incorrect as this would place the deceased as being considerably further along

Westrock Drive than the other witnesses would indicate.”

[73] Mr Murphy confirmed the source of the photographs, which he said were taken by the RUC in the area in relation to another incident which occurred on 17 September 1972. He pointed out that from these:

- “The properties in Springhill Avenue were three storied buildings.
- The property at 80 to 86 Springhill Avenue was effectively four stories on the side closest to Corry’s wall. This property had shops on the ground floor.
- There is a photograph (photo 6) which shows the road parallel to Corry’s wall. This photograph is framed in such a way that it does not show the area at the south western corner of Corry’s yard. It does show the continuation of the wall towards the east.”

[74] Mr Murphy also noted that there was no mention of an observation post in Corry’s Yard at the relevant time. I pause to observe that when this point was raised documentation emerged of a record of an observation post in Corry’s Yard – around the time of another incident in 1972. This is a matter I will return to.

[75] What also was apparent from the evidence is that Mr Murphy could not be exact about the heights of buildings at the relevant time, in particular the wall around Corry’s Yard. He did say there was a line of sight from Corry’s Yard to where Mr McKerr was placed.

VIII. ADDITIONAL WITNESS EVIDENCE

[76] A witness came forward late in this inquest. He is a civilian witness, Sean Gerard McKearney. He compiled a statement dated 29 May 2019 and gave oral evidence to me on 12 June 2019. This man was 11 years old at the time. He was in a car with his family that day going to the funeral of Mr O'Hara at Corpus Christi Church. He said he came forward to give evidence following an appeal by families at an event at a local GAA Club. He also said he had seen media about the inquest and a film and he frankly accepted that may have influenced his recollection. He was a child at the time and he again accepted that he was not clear on some details.

[77] Mr McKearney did not see the shooting. However, he said that he remembered that a military Saracen was blocking the junction of Ballymurphy Road/Westrock Drive that day so that his father had to mount the pavement to get his car into the car park at the church. He said he was mesmerised by Mr McKerr who was walking towards him with his right arm missing, pinned up by a sleeve in his jacket. He was sure Mr McKerr was walking towards the church going in the direction of Ballymurphy Road/Westrock Drive junction. He thought no one was near him when he fell. He said soldiers came and said he had a gun so he thought Mr McKerr was shot by members of the Parachute Regiment whom he saw in the area at the time.

[78] In his statement and evidence Mr McKearney also recalled going to the O'Hara wake and looking out a window into Springmartin with binoculars where he saw three men on a sofa cleaning a rifle. Also downstairs he said he saw a blood stained pair of boy's trousers and people were talking about the shooting that had occurred the night before.

IX. THE POLICE INVESTIGATION

[79] A police report for the Coroner dated 24 August 1971 recorded the following:

“The deceased was repairing a door in the Corpus Christi Church on 11 August 1971. He ceased work when a funeral service ended. As he walked along Westrock Drive he was shot in the head by a sniper. He was removed to the RVH and died on 19 August 1971.” (The latter date is an error.)

[80] There is also a formal police report of 3 May 1972. This stated no one had been made amenable for the shooting. A further report for the inquest said there did not appear to be evidence from where the shot was fired. This report said there was no military activity in the area and the deceased was not engaged in any violent activity. It stated however that there was “a state of extreme unrest” with numerous shooting incidents and this seems to be a case of Mr McKerr being shot by a stray bullet.

[81] DC Irwin was the police officer in charge of the investigation. He also confirmed in his statement that he made inquiries but no one was made amenable. He states he spoke to a potential witness who said she was in the area at the time and saw the body but DC Irwin said the woman did not hear shooting and refused to make a statement.

X. *MILITARY LOGS*

[82] As regards Mr McKerr’s death I also asked for military logs at the relevant time in particular because a point was raised that he could have been shot from Corry’s Yard and also the MoD has raised the point that he could have been shot by UVF gunmen rather than military. The following entries are recorded:

“2 Para log for 11 August 1971:

Serial 32 0713 2 men reported to have been seen over wall of Curries Wood Yard (sic). Both armed. Sub-unit to investigate.

Serial 33 0745 One of my sub units is under fire from flats near Curries Wood Yard (sic). Can G1 (2 Queen's A Coy) give assistance

34 0755 Sniper fire now stopped (serial 33)

36 0825 Our OP reports 3 men firing from Curries Wood Yard (sic) towards St Peters School.

38 0920 There is a nail bomb and three incendiary devices in Curries Wood Yard (sic)

41 1004 There is a large fire in Curries Wood Yard (sic)

51 1126 Fire in wood yard seems to be starting again

52 1127 Two men came out of Curries Woodyard (sic) moving towards school yard and Beechmount area

2 Para ops report for 11 August 1971

0713 Snipers were reported in Corries Wood Yard (sic) engaging 1 Para during their clear up operation in Ballymurphy. The area was searched but they were not found. Later three men were seen leaving the area and made their way to Beechmount, it was not confirmed that they were armed and they were not apprehended

Witness "ACoy 2 Queen's"

1755 Shots were fired at troops from the area of Corries Wood Yard (sic). Patrol investigated and flushed out some men who made good their escape into the area of Mica Drive.

39 Brigade Log for 11 August 1971

136 0630 1 Para report-sniper in area of Whiterock crossroads

163 0756 1 Para report-explosion-nail bomb found-Ballymurphy Crescent/Drive junction

Sniper fire-factory 200-300 yards (west of) Whiterock Drive

172 0830 1 Para report -(from V5-2 Para Sup Coy)3 men coming out of Corries Wood Yard(sic) 1 wounded,2 running across Whiterock.

182 0915 2 Para report-answering query from Ops HQNI-there was some shooting from wood yard at Springfield Road,3 men ran down towards St Paul's school and were then lost.

183 0920 2 Para report - Springmartin interface Corry's Timberyard - 1 nail bomb and 3 incendiary devices found

188 0940 2 Para report - Corry's timber yard - 1 nail bomb and 3 incendiaries

202 1030 ATO report - (0930) 3 pipe bombs and 1 nail bomb each with ½ lb jelly in Corry's Yard. They had been there for about 8 hours.

HQNI Log for 11 August 1971

33 0920 39 Bde report - 3 men ran from a timber yard in Springfield Road fired a few rounds then disappeared. No fire returned and no casualties."

[83] The logs do not provide any direct assistance as to activity around Corpus Christi Church. There appears to have been men seen at Corry's Yard and a fire there and incendiaries there but there is nothing specific in the logs which relates to the time of the funeral/Mr McKerr's shooting. The 2 Para log records activity in the area from 0713 to 1127.

[84] In relation to Corry's yard itself, it seems clear that an Army observation post was erected there in 1972. The MoD is keen to stress this utilising a book entitled 'Seize then the hour - a history of James P Corry & Co.' It is undoubtedly correct that an observation post went up in 1972, however as the next of kin point out in submissions the Army were also in the vicinity of the yard around this time. The book referenced by the MoD refers to troops and officers being billeted in Corry's Yard offices during March and April 1970. Also Mr T Roger Corry refers to the yard being attacked by Republicans. I have been referred to some other Army logs which point to the yard being used by the Army at times whether or not there was an observation post. For instance, on 9 August 1971 2 Para Watchkeepers log records 2 soldiers located in Corry's Yard coming under fire from Springhill.

XI. OTHER MATERIAL

[85] I have also been provided with Mr McKerr's Army material (Army service book and field medical record) from the Royal Engineers which refer to him as "a good type of soldier, sober and reliable."

[86] The MoD has provided a contemporaneous account from an Irish Times newspaper clip of 12 August 1971 which reads:

“Later yesterday morning, a middle aged man, John McCrudden(sic), was shot dead as he left the Corpus Christi Church in Ballymurphy, after attending a funeral. The shot appeared to come from a nearby factory. A witness to the killing, Mrs Maureen Heath of 73 Westrock Drive, said that the fire came from the premises of PJ Corry, timber merchants. ‘I heard the shot and at first I thought the man had thrown himself to the ground. Then I went over. The bullet went through the middle of the forehead, the whole stuff was hanging out of his head.’ A priest gave the dead man the last rites. People in the area spoke of a Protestant UVF man being responsible.”

[87] The MoD asserts that the UVF may have been responsible for Mr McKerr’s death. They rely on the newspaper article I have mentioned above. However, there is no other evidence that the UVF were involved in this particular death. The evidence of witness X places the UVF in a different location which does not square with the facts of this case. I have also read some media reports, in particular an article from the Guardian newspaper in 2014, which refers to an “unidentified sniper” in relation to Mr McKerr’s death. Again, there are questions in relation to how Mr McKerr could have been shot from the positions said to have been taken up by the UVF.

[88] No one has suggested that Mr McKerr was shot by the IRA and I have heard no evidence to that effect.

[89] The MoD has also referred to Central Criminal Records and Information Office ("CCRIO") papers regarding the attempted murder of a soldier during construction of an observation post at Corry's Yard in April 1972.

[90] I have been referred to the statements of soldiers A-I made to the Royal Military Police – found in the inquests of Mr Corr and Mr Lavery. Soldier A refers to another soldier returning sniper fire at around 0715 on 11 August 1971 and reporting that the sniper was killed at Westrock Drive. Soldier H also refers to an exchange of fire at that time. These are not directly on point but in my view they do support the claim that there was military activity/a military presence in the area that day.

XII. CONCLUSIONS FROM THE EVIDENCE

[91] In my introductory remarks I have made general observations which apply to each inquest. Specifically, I refer to the difficulty in establishing facts after nearly 50 years and the dangers of false or embellished memories. Also, in this case much of the evidence from civilians was not made contemporaneously. Accounts developed after questioning from various sources in the context of the family trying to find out what happened. Inevitably there will have been discussion in the local community about these events and so I am alive to conscious or subconscious contamination, confabulation and the creation of memories. I understand the frailty of human memory over time. I also make allowances for inconsistencies between witnesses and lack of fine detail given the passage of time.

[92] Mr McKerr's inquest has the added difficulty that the investigation at the time was a very limited one and there was no evidence collected or witness statements taken by the military. This fact must make this case extremely painful for the family of Mr McKerr who had the trauma of finding out about his death in the paper, who were also distressed by rumour and suspicion about him and who now want to

establish the truth. This failure to investigate at the time has also made my task extremely difficult.

[93] This case is also unusual in that the responsibility for the death is wholly at issue. It is unlike other cases where there is an acceptance of force and the issue is justification of force. This is a different type of case. The core question is whether, looking at the facts, I can establish that the British Army shot Mr McKerr. In my introduction I have referred to the standard of proof which is on the balance of probabilities and I apply that standard to the facts of this case.

[94] My verdict is informed by the evidence I have heard and a consideration of all the papers. Where I have preferred evidence it is not to say other witnesses have been dishonest in any way. I simply have to make an assessment. I commend all of the people who stepped forward to assist me and I make my assessment of them as follows. As I have said, I have not heard any military evidence and so I am left without any explanation from the military as to what happened. That does not mean that the cause of this death remains incapable of determination.

[95] Some matters are not so problematic and I start with those. First, let me say that I have no hesitation in stating that Mr McKerr was an entirely innocent man. He was going to/from work when he was indiscriminately shot on the street. Both Fr Harper's evidence and Mr McDonnell's evidence are corroborative of the fact that Mr McKerr was working and I cannot see that this has been contradicted by any other evidence I have heard. I accept the evidence of Mr McDonnell that Mr McKerr was behaving entirely normally on the day in question. Mr McDonnell painted a wholly authentic picture of Mr McKerr as a working man who did his work and then left the church grounds before the funeral was to come out.

[96] Also, it is quite clear but important to state that Mr McKerr had no associations with the IRA. I have obtained his death notices which corroborate this. I note that he was a proud military man and so to have any such aspersions cast on

his character must be particularly painful for his family over the years that have passed. I can at least allay that rumour and suspicion once and for all.

[97] There is no evidence to say that he was armed or behaving in anything other than a normal way. The military have no evidence to contradict this fact and belatedly the MoD has conceded this point in written submissions. So, I can confidently say that Mr McKerr was an innocent man and he was not acting in any suspicious way which would explain why he was shot.

[98] Turning to the evidence as to when this shooting occurred I start with the record that is closest in time to the event. Although Fr Harper is deceased, he provided a statement at the time. I have no reason to think it is inaccurate and in my view this statement provides the most reliable account as to the background and timing of the event. In particular, this statement convinces me that the event occurred after the funeral which was at 10.00. To my mind this is the most likely scenario anyway and it explains why there were so few people on the street as the congregation were in the grounds.

[99] In my view the other witnesses who gave evidence about this, principally Thomas Ireland, Maureen Heath and Robert Russell, are mistaken. The timing given by Fr Harper also fits with the deposition of William Carlisle who was dispatched at 11.13 in an ambulance. There is some variation between this time and that of Dr Thompson who said that admittance to the RVH was at 11.00 which was unexplained. In my view, the most likely time frame for the shooting is between 10.45 and 11.00 relying on the account of Fr Harper. It follows that I find as a fact that the shooting of Mr McKerr occurred as Fr Harper described i.e. after the funeral when people were outside waiting for the undertaker. Fr Harper also confirmed that Mr McKerr had left when Fr Harper heard shots. Fr Harper did not see anyone shooting but he said that he heard two shots, which I will return to.

[100] Fr Harper's placement of Mr McKerr after the shooting is down the footpath to his right on the same side as the church. The preponderance of the evidence is to the effect that Mr McKerr fell outside the railings on the footpath and that he was walking in the direction of Whiterock, away from Ballymurphy Road. So he must have turned right when he came out of the church gates. This is also the evidence of Mr Corr, Ms Meehan and Mr Ireland. These witnesses marked maps of the position, which with some variations show this area. I accept that witnesses, including Mr Corr, were a little unsure and changed the position but I draw no adverse inference from that in the circumstances.

[101] The most compelling account as to location I heard was from Ms Meehan. She was a young woman at the time who lived nearby. She knew Mr McKerr. She was going to the shop to buy cigarettes. Ms Meehan candidly said that she could not be 100% certain of fine details but that these events stayed with her. She placed the point where Mr McKerr fell as on the footpath at a point across from the gap between 95 and 73 Westrock Drive. I find that that is most likely and it all also tallies with Mr Corr saying that he and his wife went for cover down past No. 72 Westrock Drive. It is impossible to be more exact but on the balance of probabilities I am satisfied as to the location as I have said.

[102] The pathology evidence is clear that Mr McKerr was shot once by a bullet which entered his head from behind on the right side. Some witnesses, including Fr Harper, speak of two shots. During questioning the ballistics experts said that acoustic echo may account for one shot sounding like two shots. I am satisfied that this explains the discrepancy in evidence. In any event I am not convinced that much turns on this as if there was another shot it did not hit Mr McKerr.

[103] I am also satisfied that this was not a close range shot. The ballistic experts have said that there is nothing to suggest the presence of soot or powder tattooing around the entry wound. They go on to say that this may be of limited value given

the surgical intervention. However, there is no eyewitness account of a shooting at close range and so I am satisfied that this shot was fired from some distance.

[104] I have considered the dispute among the ballistics witnesses in relation to whether the shot was from a high or low velocity weapon. The majority view is that this is uncertain whilst Ms Kiernan was prepared to say it was most likely high velocity. Having considered the ballistic evidence I am inclined to the view that it cannot be said with certainty whether this was a high or low velocity weapon and so both options are open. I understand Ms Kiernan's position, which is based on her view of the medical notes regarding cavitation to the brain. Ms Kiernan explained to me that she formed her view of that from experience in Afghanistan. However, Ms Kiernan is also hampered by the limited evidence of the original wounds.

[105] There are a number of unknowns in this case which make me prefer the majority view. I rely on Mr Olden's opinion which accords with Mr Mastaglio that while he accepted the effect of cavitation resulting from a 7.62 bullet there is a need for caution particularly because the pathologist refers to laceration which may suggest actual contact with the brain by the bullet. The witness said that there is not a clear cut distinction between the effects of the two types of bullet. The ultimate conclusion of these two witnesses was that it is not clear cut enough to make a definitive call one way or another. I think that makes sense as they both say that they did not see the original entry wound themselves or photographs of the original entry wound. So that is the expert evidence I prefer.

[106] This finding leaves open the possibility of a shot from the Army or from some other source. I accept that the Army had standard issue SLR's which fire 7.62 bullets and low velocity weapons which fire 9mm bullets. The question then is who was in the area at the relevant time. I have heard substantial evidence from the civilian witnesses that the Army were present. I accept that this is probably accurate given the circumstances although there is no clear record as to when the Army arrived in the specific location. There is also some difference between witnesses as to whether

there were military vehicles in the area but I am not convinced that much turns upon that.

[107] The logs also reference sniper activity and incendiary devices in the area on the day in question. This includes gunmen being seen. Although none of the recordings actually refer to the specific time when Mr McKerr was shot it is reasonable to assume that there was some presence in the area that day. The account given by Witness X relating to suggested UVF involvement in the events at Ballymurphy does not accord with the location of Mr McKerr's death. There is one other reference to local talk of UVF involvement from a press report at the time.

[108] The civilian witnesses have variously described or inferred that Mr McKerr was shot by a British soldier. However, there are some issues with the quality of the evidence which I will explain. First, I start with Mr Russell's evidence as he is the only witness who says he actually saw a soldier shoot Mr McKerr. Mr Russell was 13 at the time. In his first account in 1999 he said that the shooting happened when the funeral was leaving the church. This is against the weight of the evidence that the funeral had not left the church as there were delays in the undertaker arriving. Mr Russell said that he followed down the road and saw a black soldier around the junction of Ballymurphy Road/Westrock Drive who got an order to "shoot the bastard" and then he "shot some person who was locking up the gates of Corpus Christi after the funeral had left and shot him dead."

[109] Mr Russell also referred to large numbers of paratroopers in the area and in his 2010 interview he said they went into Tommy Irvine's house and beat his wife. There is nothing to substantiate this and I do not rely on this evidence. In the 2010 interview Mr Russell also departed from parts of his 1999 account. Whilst giving oral evidence the inconsistencies became even more apparent and convinced me of the inherent weaknesses of this account. Fundamentally, the accounts do not accord with any of the other evidence and to my mind they came across as contrived and exaggerated and accordingly this evidence cannot be relied upon.

[110] Some other evidence infers that a soldier shot Mr McKerr. Sarah (Shelia) McCalliskey's evidence is not consistent with others as she describes two bouts of shooting, one as she was going into the funeral and one after, when she was standing on the church porch. She said that she saw Mr McKerr fall at the railings. She gave evidence that on her way home she saw a soldier sitting beside the junction of Ballymurphy/Westrock Road in the back garden of 67 Ballymurphy Road. She said she saw smoke coming out of the gun and assumed that he had shot Mr McKerr. This account of the smoking gun has been discounted by the ballistics experts. Ms McCalliskey thought the soldier was a white man as she had a conversation with him. Of course she did not see the soldier in number 67 actually shoot at Mr McKerr. Overall, I am not convinced that this evidence can be relied on.

[111] I consider that Mr Corr was genuinely trying to assist me but there are also uncertainties arising from his evidence. Some of this became apparent while he gave oral testimony. First, he could not be certain where Mr McKerr was positioned when he was shot. Second, he could not say whether the shot came from Corry's yard or the Whiterock Road. Third, he accepted that the soldier may have been camouflaged rather than black. Finally, he did not suggest that the soldier who pointed his gun in his direction actually shot Mr McKerr. All of these concessions are entirely understandable and creditable given the passage of time.

[112] However, the most troubling aspect of Mr Corr's evidence is that he did not mention what he knew about Mr McKerr's death during a series of interviews he gave nearer in time to the actual events. He lived in the area at 85 Ballymurphy Road and he said he was interviewed on numerous occasions. He said the first statement was in the Frank Cahill Centre in the 1980s. The second statement was at the Sinn Fein Offices. During those interviews Mr Corr was able to give details about the deaths of Mr Quinn and Fr Mullan but he separated this incident out and did not mention it. That is despite the fact he was beside Mr McKerr, held his head when dying and saw the soldier. He said it only came back to him when he was

shown a map at the Sinn Fein Centre which had a mark where Mr McKerr was killed. This means that I cannot be entirely sure that Mr Corr has such a clear and authentic memory of events as he thinks.

[113] I found Ms Meehan's account to be the most believable. She gave evidence in a forthright way and without any exaggeration, and in a sense her evidence sums up this sad case. Ms Meehan simply said that she saw Mr McKerr on the street and that she saw him fall. She thought that the shot had come from the direction of Corry's yard but she said she could not be 100% precise about what had happened. This evidence had a ring of authenticity given the uncertainties about what happened to Mr McKerr which run through all of the evidence in this case. It is important to note that Ms Meehan did not see Mr and Mrs Corr who said they were there. Another important feature of this evidence is that Ms Meehan did not see military in the location at the relevant time.

[114] I am persuaded that Ms Heath did witness events, particularly as she is named in the contemporary newspaper account. I query the actual details of that account, however this does not mean I entirely disregard the other evidence from Ms Heath. She clearly lived nearby and so I consider it entirely believable that she went to help Mr McKerr who she saw walking in and about the church railings and who she saw fall. She cannot actually say who shot Mr McKerr but she clearly saw soldiers in the area. I accept her account as regards those aspects.

[115] I do think Mr McKearney was genuinely trying to help and I thank him for coming forward. I place some weight on his general recollections of being at the funeral and his father having to mount the pavement to get through. That sounded authentic to me. Other than that I think his account could not be said to be highly accurate given the passage of time and the fact he was a child. I cannot rely on this evidence any further for specific details.

[116] A number of the witnesses have said that they thought the shots came from Corry's Yard as that was "the talk of the town." Of course, local gossip does not equate to reliable evidence. However, witnesses such as Mr Ireland, Ms Meehan and Ms Heath all suggest this location and so I cannot simply ignore that evidence. All of these witnesses (save Ms Heath in the newspaper account) gave their accounts long after events and some accepted they had talked about and listened to conversations in the local area in the intervening time. When assessing this I also bear in mind the logistical issues given the location of where Mr McKerr fell and the fact that he was shot from behind. There is a line of sight from Corry's Yard and if Mr Mc Kerr turned his head as one witness said, Corry's yard is an option. The junction of Ballymurphy Road/Whiterock Drive is another possible location as are other locations behind Mr McKerr. I note that the MoD raised the absence of an observation post in Corry's Yard until 1972. However, I accept the evidence that the Army used that area prior to 1972. I cannot rule out a military presence in that location but equally I cannot rule out a paramilitary presence there. The evidence of a military presence around the Ballymurphy/Whiterock Road is stronger as that accords with the civilian evidence and it is consistent with the military logs.

[117] I note the police report which referred to a "stray bullet." I also note Mr McDonnell's testimony that it was said Mr McKerr's prosthesis was mistaken for something. So someone may have made a mistake. Or there may have been a stray bullet. These possibilities are not out of the question given the tense atmosphere at the time illustrated by the military logs.

[118] It is impossible for me to say where exactly any shot may have come from due to the weaknesses in the evidence which I have referred to. That is not the fault of the civilian witnesses by any means. It is simply a fact that the evidence is not consistent and clear and I am severely hampered by the inadequacy of the investigation at the time. There is also no direct evidence I can rely on as to who fired the fatal shot. I cannot decide this case on the basis of opportunity or presence

in the area. This is a serious issue which requires proof and I am simply not satisfied that I can make a determination on the balance of probabilities.

[119] However, there is an aspect to this case which I can comment upon and which is highly relevant in the context of the investigative obligation upon the State in relation to fatal shootings. It is shocking that there was no real investigation into the death at the time. Not one statement was taken from the military in the area. The scene was not sealed. The bullet was not recovered.

[120] I believe Mrs Ferguson when she said that she was told by a nurse that a bullet fragment was found at the hospital but nothing more came of that. This abject failing by the authorities to properly inquire into a death of a civilian on the streets has hampered me greatly as I cannot say with more certainty how this death occurred. This is the striking feature of this case which I record in the strongest of terms. This is my core finding. It is in itself a serious indictment of the State's failure to properly investigate the death of an innocent civilian. In light of the forgoing I have reached the following verdict.

XIII. VERDICT

[121] The deceased was John Joseph McKerr of 26 Andersonstown Park West, Belfast:

- (a) Mr McKerr was shot on Westrock Drive, Belfast, on the pavement outside Corpus Christi Church around 10.45/11.00 on 11 August 1971.
- (b) Mr McKerr died of his injuries on 20 August 1971. He was 49 years of age, a married man and father of eight children.

- (c) Mr McKerr formerly served in the British Army as a member of the Royal Engineers. He had served in World War II and sustained an injury which meant he lost his right hand and used a steel prosthetic.
- (d) Mr McKerr was a joiner by trade and on 11 August 1971 he was working at Corpus Christi Church.
- (e) Mr McKerr was walking along the pavement outside the church when he was hit by a single bullet which entered the right side of his head behind the right ear, fractured his skull and tore his brain.
- (f) Mr McKerr was not doing anything which could have caused someone to think him a threat or which justified the use of lethal force against him. He was clearly unarmed.
- (g) There was no adequate investigation by the relevant authorities. This is a significant State failing and an abdication of responsibility. It is a matter of grave concern as the court has been hampered in reaching a more definitive finding in relation to the death of an innocent civilian on the streets.
- (h) On the available evidence the court cannot make a definitive finding as to who shot Mr McKerr and from where.

Mrs Justice Keegan
Coroner

11 May 2021

ANNEX 5

INCIDENT 5: THE DEATH OF JOHN MCKERR

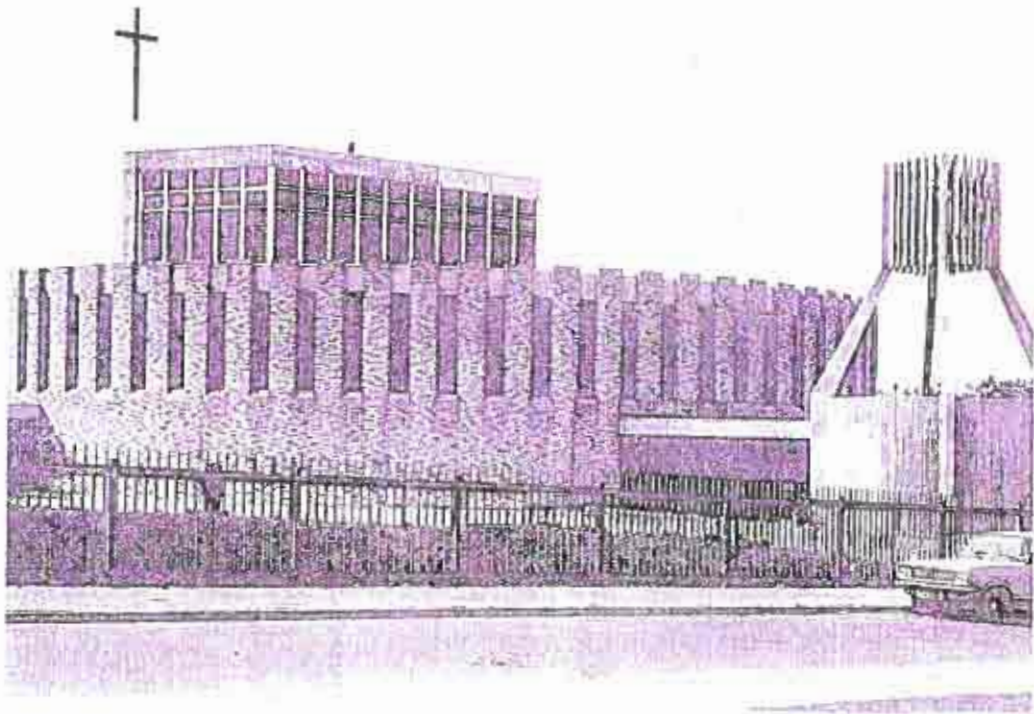
5.1 TBM Consultants /Ordnance Survey Map 1971

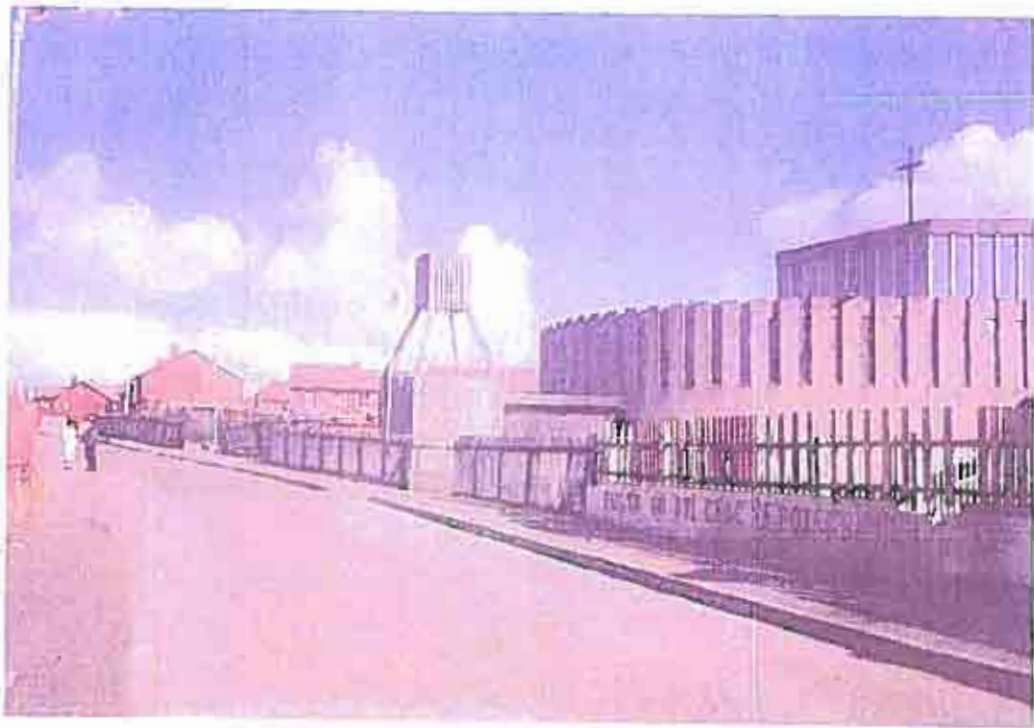
5.2 Photographs of front of Corpus Christi Church

5.1 TBM Consultants / Ordnance Survey Map 1971



5.2 Photographs of front of Corpus Christi Church





Neutral Citation No: [2021] NICoroner 6

Ref: KEE11475

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 11/05/2021

IN THE MATTER OF THE CORONERS ACT (NORTHERN IRELAND) 1959

**IN THE MATTER OF A SERIES OF DEATHS THAT OCCURRED IN
AUGUST 1971 AT BALLYMURPHY, WEST BELFAST**

**INCIDENT 4
THE DEATHS OF JOHN LAVERTY AND JOSEPH CORR**

CORE ABBREVIATIONS IN THIS INQUEST:

RMP:	Royal Military Police
MoD:	Ministry of Defence
IRA:	Irish Republican Army
RUC:	Royal Ulster Constabulary
SLR:	Self-Loading Rifle
APC/PIG:	Humber armoured personnel carrier
HET:	Historical Enquiries Team
CSNI:	Coroners Service of Northern Ireland
SITREP:	Situation Report
SIB:	Special Investigations Branch
CCRC:	Criminal Cases Review Commission
ALJ:	Association for Legal Justice
SMG:	Submachine Gun
HQNI:	Headquarters, Northern Ireland
PSNI:	Police Service of Northern Ireland

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I. INTRODUCTION

[1] This is an account of the evidence and my conclusions and verdict. I have considered the evidence heard between 20 May 2019 and June 2019. I have also considered all of the papers and the written submissions of counsel. This text does not recount each and every aspect of the voluminous material I have considered and so it should not be assumed that where some detail is not specifically mentioned I have not considered it. I have considered the totality of the evidence in reaching my findings.

[2] In the introductory chapter I set out the law governing inquests in Northern Ireland which I have applied. With the agreement of all parties I have heard this inquest as a judge sitting as a coroner without a jury. I have kept in mind the investigative obligation imposed by Article 2 of the European Convention on Human Rights (“ECHR”). I have applied the balance of probabilities as the standard of proof. The cogency of the evidence is another issue as this case relates to events almost 50 years ago. The Court is mindful that memory is affected by the passage of time and so accounts must be examined carefully before findings can be made. In accordance with my obligations in law I have, upon assessing all of the evidence I have seen and heard, tried to reach a verdict on the core issues. Where I have not been able to reach a conclusion I have explained why.

[3] Incident four in the Ballymurphy sequence concerns the deaths of John Laverty and Joseph Corr on 11 April 1971. Mr Laverty was aged 20 years of age when he died. He lived in the local area at 17 Whitecliff Parade with his parents and siblings. Mr Corr was a married man aged 43 who lived with his wife and seven children at 24 Divismore Crescent, Belfast.

[4] It is common case that these deaths occurred in the early hours of 11 August 1971 in and around the Whiterock Road. There was unrest in the area at the time. The military were present in that C Company, 1st Battalion, the Parachute Regiment were engaged in an operation coming down an area known as the Mountain Loney into the Whiterock Road. It is accepted that the soldiers engaged in fire, the issue is whether the deceased were firing at them at the relevant time.

[5] On 12 October 1972 inquests took place into the deaths of both men before the coroner, Mr Elliott. Open verdicts were recorded at this time. The cases were then referred by the Attorney General for a fresh inquest. By way of letter of 16 September 2011 the Attorney General wrote *inter alia*:

“I note that it appears, from the information available, that the investigation into the death of your client’s relative does not appear to have been thorough or effective. In this regard I note the evidence of C to the original inquest confirming that neither the police nor the military police approached soldier B to take a statement from him until 21 July 1972, almost one year after the incident in question. While C told the inquest that he would have expected Soldier B to have made a report accounting for his having fired rounds of ammunition, he does not seem to have obtained a copy of any such report, nor does he appear to have been pressed upon this

point by the Coroner. Furthermore, Mr Corr died in hospital more than two weeks after the shooting. If the allegation that Mr Lavery and Mr Corr were part of a group of 3-4 people, at least two of whom had been firing shots at the army, had been made contemporaneously, it seems surprising to say the least that swabs were not taken from his hands in hospital, as, for example happened in the case of Joseph Murphy. Similarly, there is no indication that swabs were taken from the hands of Mr Lavery. This appears to indicate either that the allegation that the two men had been firing weapons was not made at the time or that there was a complete failure to investigate on the part of the police and the Royal Military Police.

I note that at the time of this investigation, under the terms of an agreement between the Royal Ulster Constabulary and the Royal Military Police, the police did not have access to military witnesses and that the investigation of the accounts of military witnesses was effectively delegated to the RMP. This delegation of responsibility and the lack of rigour in investigations by the RMP have been the subject of judicial criticism.

I further note that the account of soldier B appears to indicate that he was the point man in a foot patrol, i.e. the soldier in an exposed position at the front of the patrol. His statement indicates that he came on one male person lying down on the pavement and that he also saw a trail of blood leading away from that spot up a pathway to one of the houses and off into the garden. Despite this

admission that he was aware of the possible presence of an armed man in the garden of the house, his statement surprisingly simply continues 'I continued my advance down the Whiterock Road past the barricade and across the Springfield Road.' The statement neither indicates that he took any action to investigate the possible presence of an armed man in the garden nor to warn his military colleagues. Due to the fact that Soldier B was not present at the inquest and his statement was simply read out by another soldier, there was no opportunity to question Soldier B on the issues arising from his statement."

[6] Military and civilian witnesses have given evidence about these deaths. I also heard pathology and ballistics evidence which I will discuss herein. I had the benefit of engineering evidence provided by Mr Brian Murphy, Consultant Engineer. I also considered maps and photographs of the area. Finally, I have been greatly assisted by the submissions of counsel for the next of kin and the Ministry of Defence ("MoD").

II. SETTING THE SCENE

[7] The location of the shooting was examined by Mr Brian Murphy, Consultant Engineer. Mr Murphy filed a comprehensive report dated 9 May 2019 and further photographs in a report dated 21 May 2019, an 'update report 1' dated 25 May 2019 and 'update report 2' dated 7 June 2019. Mr Murphy also gave helpful evidence to me in person.

[8] Mr Murphy used Ordnance Survey maps from 1972 and 1971 to explain the area. He also used some contemporaneous photographs. He highlighted the similarities and differences between the 1971 location and the present day as follows.

The general location at issue is the Whiterock Road as it progresses to the junction with the Springfield Road. The critical sites were a house at 227 Whiterock Road, where Soldier B is thought to have fired from, and the houses just further on down Whiterock Road at numbers 205-217, where the deceased were located. The road into this area is known as the Mountain Loney.

[9] Mr Murphy explained that the road layout and gradient of Whiterock Road is substantially the same, the houses from 201 to 227 Whiterock Road remain in the same place, the road layout and gradient of Dermott Hill Park, Green Road Gardens and Parade remains the same, the houses within Dermott Hill Park, Green Road Gardens and Parade remain essentially the same albeit that some houses have been extended. Houses have been built at the site near to the corner of Dermott Hill Park and Whiterock Road.

[10] There are some differences in the topography which Mr Murphy explained as follows. He said that a pavement has been added to the northern side of the Whiterock Road above house No. 227, on the southern side of the road in this vicinity the road has been slightly realigned and some new houses have been built.

[11] Mr Murphy drew attention to the fact that the roadway rises from the traffic island at the junction of Springfield Road going up the road 6.875 metres over a distance of approximately 130 metres. Also, he pointed out that the pavement outside the houses from 201 to 221 is above the road by varying heights - at a maximum of 1.427 metres at No. 215 Whiterock Road. There is a retaining wall dividing the roadway from the pavement with steps down which can be seen in the maps and photographs. I note that there were metal railings on top of the retaining wall in the recent photographs. I refer to the following map which shows the general area. This is attached and found at **Annex 4.1**.

[12] During the inquest we used Plan 3 during the oral evidence and a variety of witnesses marked locations on it. Plan 3 is an Ordnance Survey map from 1972. I

have already said that this is a difficult exercise which can never be entirely accurate at this remove of time but for completeness sake I record the following markings that were made on Plan 3 (as annexed to these findings):

- (1) Exhibit B4/02, marked by Joseph Marley, civilian witness - a '1' in red is marked where he got to as part of "the charge" up the Whiterock Road (**Annex 4.2**). There were also photographs attached to his statement (marked JM/02), in which he identified house No. 201 Whiterock Road where he sheltered from the army (**Annex 4.3**).
- (2) Exhibit B4/03, marked by military witness M432 - 2 red marks outside 205 and 219 respectively where he saw injured men (**Annex 4.4**).
- (3) Exhibit B4/05, marked by M380 - a large red circle between 217 and 209 covering the pavement area where the injured men where (**Annex 4.5**).
- (4) Exhibit B4/06, marked by M368 - 2 marks, '1' and '2', re injured men outside 211 and 213 (**Annex 4.6**).
- (5) Exhibit B4/07, marked by M344 - a red 'X' at 217/ 215, a red 'C' for injured man at 209 and 'B' for barricade at junction of Whiterock Road and Springfield Road (**Annex 4.7**).
- (6) Exhibit B4/08, marked by Brian Murphy - photo position update (**Annex 4.8**).
- (7) Exhibit B4/11, marked by M443 - 'B' at very top of Whiterock Road (**Annex 4.9**).

[13] As noted above, the witness Joseph Marley provided photographs (**Annex 4.3**). These are marked A, B, C, D and E. Photographs A, B, C, D show the area at the time and in particular the way down from the mountain onto the Whiterock

Road. Photograph E is not contemporaneous but shows houses and the road at the time, explained by Mr Marley in his evidence.

III. FAMILY TESTIMONIALS

[14] I heard from relatives who provided pen pictures of the deceased. Eileen McKeown is the daughter of Joseph Corr. She gave evidence that his parents had four other children; he had two brothers and two sisters. He attended St Comgall's School in the Lower Falls. After school he became employed in Short Brothers as a machinist. He married his wife Eileen and they lived first in the Lower Falls before moving to Ballymurphy. At the time of his death the family had plans to emigrate to Australia as Mr Corr had a brother there. The children did not get to see their father in hospital after he was shot and they were evacuated from the Ballymurphy area to a convent in Dublin where they were when he died. Eileen McKeown gave evidence of the effect of her father's death upon the family as follows:

“Mummy had to go to work after daddy died. She didn't get any financial help whatsoever. She didn't get a widow's pension, she didn't get free school uniforms, or free school dinners for us. I have no idea how she did it. It was so hard for her. Then mummy had a hard life, I was only nine and there were two kids below me as well as the older ones. There was no compensation paid to my mummy. She didn't even get anything from his workplace other than a letter that came from some Shorts workers not long after daddy died which said 'May your subhuman husband and his pals rot in hell.' The army told the media and the media put it out there he was an

IRA gunman. That's why she got the hate mail from his workmates.

When the media said he was a gunman, they blackened his name and blackened our family's name."

[15] Mrs Eileen Corr, the deceased's widow, made a deposition under oath for the original inquest in which she said that "he was never involved in any trouble and was employed for 20 years with Short Brothers and Harland."

[16] Carmel Quinn also provided a personal testimony by way of pen picture in relation to her brother John Laverty. She said that he was named after his uncle John who had fought in World War II. He was the fifth of eleven children in a close knit family. He was described as happy and he was the prankster of the family. Ms Quinn provided a clear recollection of John laughing during the preparation for her eighth birthday party on 3 August 1971 and of his waving goodbye until she was out of sight when she was evacuated from Ballymurphy on the introduction of internment six days later. That was the last time she saw him alive.

[17] John Laverty's father Thomas gave evidence at the original inquest at which he said that his son "was not a member of any subversive organisation and he did not know anything about guns or have knowledge of firearms."

IV. PATHOLOGY

[18] Post mortem examinations were carried out on both of the deceased. In respect of Joseph Corr, Dr John Press carried out an autopsy on 29 August 1971. His findings were admitted under Rule 17. The report of autopsy also records that during the course of the examination photographs were taken by Constable Sinclair, Royal Ulster Constabulary ("RUC") Photography Branch.

[19] In the autopsy report Dr Press records that there were gunshot wounds in the following situations:

“Trunk

- (i) An entrance wound on the right side of the back, centred 4½cm to the right of the midline and 3cm above the level of the iliac crest. It was a round hole, 6mm diameter, surrounded by a zone of healed abrasion, about 2mm broad. Its left margin shelved outwards whilst the right was undermined. A probe inserted into the wound extended upwards and forwards at an angle of about 40° to the horizontal plane with a deviation of 45° to the right.

- (ii) An exit wound on the right side of the chest in about the mid axillary line, centred 8cm above the level of the ilia crests. It was a roughly round hole, about 9cm diameter, with necrotic margins.”

[20] In his opinion section Dr Press wrote as follows:

“The man appeared to have been healthy. Death was due to a gunshot wound of the abdomen and chest. A bullet had entered the right side of the back of the abdomen, had passed forwards, upwards and to the right lacerating the bowel and liver before leaving the body through the right side of the lower chest where it fractured four ribs. These injuries gave rise to peritonitis, an acute

inflammatory condition of the abdominal cavity, and by interfering with his breathing they also gave rise to bronchopneumonia, an acute inflammatory condition of the lungs and air passages. The pneumonia and the peritonitis eventually precipitated his death about thirteen days after he was shot despite treatment in hospital.

The wounds were of a type caused by a bullet of high velocity. In view of the time interval between infliction and death it was not possible to make any estimate of the range from which the weapon was fired.

If he were erect at the time the weapon was fired then the bullet must have come from behind, to his left and upward.”

[21] In relation to Mr Lavery, Dr Derek Carson, Deputy State Pathologist, conducted the autopsy on 12 August 1971. Dr Carson recorded that photographs were taken at his direction by Sergeant Penney, RUC Photography Branch.

[22] Dr Carson first noted that the following clothing was removed from the body:

- “1. A blue shirt with long sleeves, buttoned at the front and blood stained at the back.
2. A white vest intact at the neck-band but torn down the left front.
3. A pair of blue jeans with a large tear at the right thigh.
4. A pair of white underpants.
5. A pair of brown laced boots.

6. A pair of blue patterned socks.”

[23] Dr Carson then recorded:

“Gunshot wounds were present in the following situations:

Back

- (i) An oval entrance wound, 14x7mm, on the right flank, its long axis directed downwards and to the left an angle of 45°. Its upper end lay 17cm below the lower angle of the scapula and 11cm from the mid line. It was surrounded by a collar of reddish abrasion 2mm wide. Its lower right margin shelved outwards whilst its upper left margin was under-cut.

- (ii) An elliptical exit wound, 10x4½cm on the left lower chest, its upper left margin 8cm below and 5cm to the right of the lower angle of the scapula and its right lower margin 1½cm to the right of the mid line. In some parts its margins were surrounded by one interrupted rim of abrasion 2-3mm wide lacerated muscle was exposed in the depths of the wound and it was continuous with the previous wound by a track through the subcutaneous tissues. The track connecting the two wounds passed upwards and to the left at an angle of 45° to the horizontal and backwards at an angle of about 10° to the coronial plane.

Right lower limb:

An oval entrance wound, 11x6mm, on the outer side of the thigh, centred 7cm above the line of the knee joint. It was surrounded by a rim of abrasion 2mm wide. The long axis of the wound was vertical and its lower margin shelved outwards whilst its upper margin was undercut. A probe inserted in the wound passed upwards and to the left at an angle of about 33° to the vertical."

[24] In addition, Dr Carson recorded abrasions to the face and injuries to the ribs. Also on the external surface of the rib cage beneath the skin a spent bullet was found within the lacerated muscle and beneath the external bulge. It was sharply pointed, of copper-jacketed type 29mm long and 7mm diameter, the casing being partly raised and broken near its base.

[25] Dr Carson recorded that the deceased's clothes and the bullet were handed to Constable Greer, Scenes of Crime Officer. Analysis of blood excluded the presence of alcohol.

[26] In his opinion section Dr Carson recorded the following:

"The young man was healthy. There was no natural disease to cause or accelerate death or to cause collapse.

Autopsy revealed an entrance gunshot wound on the right flank and exit wound on the right flank and exit

wound on the back of the lower chest. These were connected by a track passing through the subcutaneous tissues and muscle the direction of the track being from right to left and upwards at an angle of 45° to the vertical and backwards at an angle of about 10° to the coronal plane. This wound involved only the fleshy tissues and would not have proved fatal.

There was another entrance wound on the outer side of the right thigh and a spent bullet was found beneath the skin on the left side of the chest. From the entrance wound the bullet had passed upwards and to the left at an angle of about 35° to the vertical, through the tissues of the thigh into the pelvis. It had then perforated the bladder and the intestines and had lacerated the right kidney, spleen, and diaphragm and left lung before leaving the left chest cavity between the seventh and eighth left ribs. Death was due to internal bleeding from the injuries caused by this bullet.

The deceased had thus been struck by two bullets, apparently fired from a high velocity rifle. The path of each was fairly similar, from right to left and fairly sharply upwards. Thus, if the deceased were upright at the time they must have come from a much lower level on his right. They could also have been caused when he was lying down, by bullets travelling obliquely from his right on a more or less horizontal plane."

[27] The report of the Forensic Science Laboratory showed that at the time of his death there was no alcohol in his body.

[28] Various independent expert pathology reports were also prepared for this inquest. I have considered these, namely written reports of Dr Benjamin Swift, Consultant Forensic Pathologist, of 20 May 2018, the reports of Dr Nathaniel Roger Blain Cary, Consultant Forensic Pathologist, of 5 January 2019 and the reports of Professor Jack Crane, which are undated.

[29] In addition, Dr Swift gave evidence before me and in doing so he confirmed that there was agreement between all of the pathology experts. In relation to Joseph Corr, he, on behalf of the experts, referred to an agreed joint written statement which reads as follows:

“So we would wish to make the following comments regarding the death of Joseph Corr:

1. We each agree that Mr Corr died just over two weeks after receiving a single high velocity gunshot wound to the back of the abdomen and chest.
2. We each agree that the wound to Mr Corr’s outer right arm was likely caused by the exit of the same high velocity bullet though cannot entirely exclude a second bullet.
3. We each agree that he must have bent forwards exposing his right side which would include falling forwards, crouching, kneeling, crawling or lying positions. The topography of the area should also be considered.

Finally, we stated that:

4. There were no injuries to indicate that he had been beaten or tortured.”

[30] In relation to John Laverty, Dr Swift also confirmed the consensus of the pathologists as follows:

“Relating to Mr Laverty we make the following comments:

1. We each agree that Mr Laverty died as a result of a high velocity gunshot wound. The bullet entered the lower right thigh and was recovered from the left side of the chest wall. Death would have ensued rapidly from the internal injuries though there would have been a period of consciousness and possibly purposeful movement beforehand.
2. We each agree that a second gunshot wound to Mr Laverty’s back was likely caused by a high velocity bullet.
3. We each agree that he must have been bent forwards exposing his right side likely whilst in a prone position possibly crawling or lying. The topography of the area should also be considered.
4. And again, we included a statement there were no injuries to indicate that he had been beaten or tortured.”

V. *BALLISTICS*

[31] There was a similar amount of consensus among the ballistics experts. I have considered the written reports of Mr Mark Mastaglio and Angela Shaw of 14 November 2018, Mr Paul Olden of 31 August 2018 and Ann Kiernan of 23 May 2019.

[32] In addition, I heard helpful evidence from Mr Paul Olden who read into the record a joint report from the experts as follows:

“Based on the description of the wounds provided in Dr Press’s and the TBM reports, the wounds could have been caused by the passage of a single high velocity rifle bullet such as 7.62 x 51mm calibre although it cannot be discounted that the wound to the right arm has been caused by a second bullet.

A bullet had entered the right side of the lower back just above the hip and tracked upwards. Dr Press gives the upwards angle as 40 degrees from the horizontal, from left to right and exited the right side of the chest. The wound to the right arm could have been caused by this bullet after exiting from the chest or by another fired bullet. The size, 6mm, and circular symmetry of the entry wound to the back are consistent with a direct shot rather than a bullet that had ricocheted.

There is nothing in the pathologist’s report to suggest the presence of soot or powder tattooing around the entry wound. Although the presence of such features would indicate a shot fired from very close distance their

apparent absence is of limited value given the location of the wounds and that clothing would have been worn.

From the wound ballistics it is not possible to make any useful assessment of the particular location of Mr Corr or the firer when the shot was fired. Given the topography of the scene if Soldier B was positioned close to 227 Whiterock Road then he would have been on marginally higher ground than the raised pavement and roadway that ran down the odd numbered houses towards Springfield road. If Mr Corr had been on this pavement or on this part of the roadway when he was shot by Soldier B positioned outside number 227, then due to the location of the entry wound and upward wound track Mr Corr would have been facing away from Soldier B bent forward at the waist crouched, kneeling or on the ground when he was shot. Mr Corr could not have been standing upright. Looking down Whiterock Road in the direction of Springfield Road from the gardens of houses 227, 225 and 223 lines of sight exist to the raised pavement and Whiterock Road. If Mr Corr had been standing upright on the pavement or roadway the wound track could only have been caused if Soldier B had been at a lower level with his rifle pointed upwards at about 40 degrees to the horizontal. It cannot be discounted from the wound ballistics alone that Mr Corr was shot from the Springfield Road uphill into Whiterock Road nor can it be discounted that he was shot twice from more than one direction.

In relation to John Lavery, again based on the description of wounds provided in Dr Carson's report, pm photos and the TBM reports and examination of the recovered fired bullet. Mr Lavery had two gunshot entry wounds, one to right side of the back and one to the outside of the upper right thigh. The bullet that had entered the thigh was recovered from the external surface of the ribcage and was identified as being a 7.62 x 51mm calibre bullet consistent with originating from UK military L280 20 ammunition.

The rifling marks engraved onto the bullets were of the same general class of the rifling used in the L1A1 SLR barrel in number, direction and dimensions. However, rifling data provided by the FBI GRC file and the German BKA fire type data base indicates that there are other 7.62 x 51mm calibre rifles that have similar rifling characteristics.

There was no damage to the bullet to indicate that it had ricocheted from a hard object before entering the body. The bullet tip was slightly bent, the lead core was partially extruded and part of the jacket was peeled away from the core. The features are as expected for a bullet of this type that had passed through tissue and struck bone, the latter resulting in the peeling of the jacket.

The bullet that had entered Mr Lavery's right side had passed upwards at an angle given by Dr Carson as 45 degrees from the vertical. A similar upward angle of 35 degrees from the vertical was noted for the wound track

between the entry wound in the thigh and the location of the recovered bullet. The bullet that entered the right side reportedly caused tissue damage without striking bone. The pathologist's report indicates that the bullet that entered the right thigh may have struck the pelvic bone. This is supported by the bullet jacket damage and apparent bone fragments found held in the bullet. This bullet may therefore have deflected within the body such that the angle quoted by the pathologist may not accurately reflect the original trajectory of this bullet.

The two wound tracks are consistent with minimal movement by the firer or by Mr Lavery in the time between the two shots. Consequently, the two shots may have been fired in quick succession or there may have been minimal movement by Mr Lavery and the firer within a longer timeframe before the second shot was fired. The descriptions of the two entry wounds are consistent with direct shots and do not suggest that either bullet had ricocheted.

There is nothing in the pathologist report to suggest the presence of soot or powder tattooing around the entry wound again although the presence of such features would indicate a shot fired from very close distance their apparent absence is of limited value given the location of the wounds and the fact that clothing would have been worn.

It is not possible from the wound ballistics to make any useful assessment of the particular location of Mr Lavery

or the firer when the shots were fired. Given the topography of the scene if Soldier B was positioned close to 227 Whiterock Road then he would have been on marginally higher ground than the raised pavements and the roadway that ran down the odd numbered houses towards Springfield Road. If Mr Lavery had been on this pavement or on this part of the roadway when he was shot by Soldier B positioned outside number 227, then due to the location of the entry wounds and upward wound tracks Mr Lavery would have had his right side facing Soldier B and would have been crouched, kneeling or on the ground when he was shot. Mr Lavery could not have been standing upright.

Looking down Whiterock Road in the direction of Springfield Road from the gardens of houses 227, 225 and 223, lines of sight exist to the raised pavements and Whiterock Road. If Mr Lavery had been standing upright on the pavement or roadway the wound tracks could only have been caused if Soldier B had been at a lower level with his rifle pointed upwards potentially at about 35 to 45 degrees to the vertical.

And finally, it cannot be discounted from the wound ballistics alone that Mr Lavery was shot from the Springfield Road uphill into Whiterock nor can it be discounted that he was shot twice from more than one direction.”

[33] A report from the Police Service of Northern Ireland (“PSNI”) was also filed relating to the bullet found in Mr Lavery. This report refers to a search of records in

relation to weaponry utilised by paramilitary groups. It states that the first recovery of an LIAI Self Loading Rifle (“SLR”) from an incident attributed to Republicans was 13 October 1971. Of the 29 such firearms recovered, stolen dates exist for 14, only two of which were prior to August 1971.

VI. CIPHERED SOLDIERS

[34] It will be apparent from the subsequent sections that the account of ciphered Soldier B is a core military account as he said he shot at people on the Whiterock Road. I will assess this account in due course in these findings. However, before dealing with the evidence I must point out that I did not hear direct evidence from B or any other ciphered soldier. In some instances it was suggested that military witnesses were ciphered soldiers. I have assessed this as best I can. There is another complicating feature. In the papers relating to the deaths of Mr Corr and Mr Laverty there is also an entirely separate batch of statements from other soldiers which were taken by a member of the Royal Military Police (“RMP”) on 11 August 1971. The statement taker has been identified as M437. The soldiers have the ciphers Soldier A - I. These statements do not correlate with the statements of the two medical officers A and D nor with B who said he fired shots on the Whiterock Road. When the Historical Enquiries Team (“HET”) reviewed the Ballymurphy deaths, they thought that the statements from A - I might be associated in error with Mr Laverty. It appears from these statements that on 11 August 1971, the 1st Battalion of the Parachute Regiment was ordered to clear all barricades erected on the entry roads to Turf Lodge, New Barnsley and Ballymurphy. They were also ordered to clear the area of Irish Republican Army (“IRA”) gunmen. The statements contain accounts of several purported engagements with gunmen in a number of areas including Ballymurphy. It is not obvious that any of these accounts relate to the deaths of Mr Corr and Mr Laverty, however I have considered this evidence as part of the overall picture along with the account of Soldier B who obviously was more directly connected to these events.

VII. CIVILIAN EVIDENCE

[35] The evidence of Mr Robert Doyle was presented in the form of a statement made to the Coroners Service for Northern Ireland (“CSNI”) on 23 May 2018 and transcripts of interviews he gave to Paul Mahon on 2 March 1999 and Pádraig Ó’Muirigh on 24 March 2011. Robert Doyle also gave an interview to Laura McMahan (together with his brother Bernard Doyle) on the 19 August 2009. Mr Doyle also gave evidence before me. I summarise his testimony as follows. On the day in question he was 16 years old and he lived at 205 Whiterock Road with his family. He said that he was at home with his brother and father; his mother had gone to Butlins on a holiday with other children. He said he and his brother were wakened by his father around 3.00am. Mr Doyle then recounted what he had heard from others about what was happening, namely that locals were out on the street and moved in the direction of soldiers coming down the Mountain Loney. He did not witness shooting but in his evidence he said that being woken from his bed he heard “heavy shooting” which he thought was coming from the Mountain Loney from soldiers. In his various interviews Mr Doyle referred to “volunteers” in the area firing guns and that shots were fired at the jeep he was taken away in. He was less sure of this in oral evidence. Mr Doyle also made some reference to his father being out with a Mr McEvoy.

[36] Robert Doyle’s evidence really centred on what he says was an injured man in the garden of his house and alleged brutality by soldiers after he was himself arrested and interned. As regards the injured man in the garden, Robert Doyle frankly accepted that he did not see him himself but relied on what his brother told him. His evidence is therefore only of value in corroborating Bernard Doyle’s account that there was an injured man in the garden and that he heard this man moaning in the garden. I cannot rely on his recollection that the injured man was physically abused by soldiers, trailed by the hair down the pathway and into the street. Robert Doyle did not see this and no-one else gave evidence of this and so I discount it. Robert Doyle’s evidence that the injured man was “placed in a dump” is

clearly also not of any evidential weight as he said it was just talk on the street and as an allegation it is unsustainable on the basis of the evidence. He said there was no riot outside his home.

[37] Apart from corroboration of Bernard Doyle's account of the injured man, Robert Doyle's evidence was credible regarding his treatment after arrest. He was 16 at the time when soldiers burst into his house, took him out, arrested and interned him. I cannot make findings on the specifics but I can make a general comment about this, as I found Mr Doyle to be a straightforward witness and, as he said himself, he received compensation as a result of his treatment. This does not assist me any further in coming to a specific verdict regarding Mr Lavery and Mr Corr's death, however I record my acceptance of Mr Doyle's evidence about what happened to him as part of his arrest.

[38] Bernard Doyle provided a witness statement to CSNI dated 8 April 2019 and he was also interviewed by Laura McMahon on 19 August 2009 and Paul Mahon on 2 March 1999. I also heard oral testimony from Mr Doyle about what happened on the day in question. Bernard Doyle claimed to have made an earlier statement in 1971 at the Sinn Fein Office, Whiterock Road, however no record of this could be found. I summarise his evidence as follows.

[39] Bernard Doyle was 18 or 19 years of age at the relevant time. In his evidence he said he remembered waking up at around 4.00am and hearing what he thought were plastic bullets, the sound coming from up the Mountain Loney. He heard moaning from outside after he and his brother went down to the front door of the house. Bernard ventured further in that he crawled down the pathway to the gate to talk to the man. He said he could not see who was making the moaning sound but he believed that the person was a man on the other side of the garden hedge, to the right-hand side of the house (or mountain side) about 3-4 feet away from him.

[40] Bernard Doyle said that he conducted a conversation with the man. He wanted the man to crawl into the garden but he said he could not move and the man said not to open the gate or assist him as he would get shot. Bernard Doyle was unclear in his evidence whether he could see soldiers. That ends Bernard Doyle's involvement. He did not call for medical assistance, which I consider was perfectly reasonable as the house did not have a phone and he was scared. The next thing he explained was that soldiers entered his house and forcibly removed him and his brother. At this point Bernard gave further evidence about the injured man. He said that as he was being taken from his home, he saw the man again, now within the garden, not moving but moaning. He said he had on dark trousers, a white shirt and that it was covered in blood. He did not see any weapon near the man. In his evidence Mr Doyle said the man must have been "trailed" into the garden but there is no evidence for that. Mr Doyle also made some points about the man being tortured and left in a dump, but I did not find that evidence convincing. Mr Doyle could not actually clearly identify the person he saw in the garden other than to refer to the white shirt. He did say there were barricades in the area but could not assist me regarding the extent of these or location. He said there was no riot going on. He did recall a shot after his own arrest and bangs when he was taken away in the jeep to Girdwood barracks.

[41] Mr Doyle gave quite substantial evidence about his own treatment on arrest, after being taken from the house, kept at the green and then transported to Girdwood barracks. He told me he had been off work for six months after his release, that he had a back injury and that he received compensation. The compensation is a fact and substantiates his claims of ill-treatment, which I accept in general terms. It is beyond my remit to go any further, or into specifics. This fact does not assist me in determining the specific issues I have to decide regarding Mr Corr or Mr Lavery's death.

[42] Overall, Mr Doyle presented as a straightforward man. Understandably much of the detail he gave about events was hazy. However, I accept his evidence

about the injured man he had a conversation with and the man he saw in the garden. I will take this into account when looking at the overall picture. I also accept his evidence regarding his treatment on arrest. I accept his evidence that his house was damaged and he had to stay with an aunt afterwards. As with his brother, his individual case regarding his arrest and detention was not seriously challenged, probably because he received compensation.

[43] Edward McCourt made statements dated 6 June 2018 and 1 May 2019. I was also provided with portions of an undated statement, a statement dated 4 November 2010 and a transcript of an interview with Paul Mahon on 25 May 1999. He gave oral testimony and explained that he was 38 years of age at the time of events and lived at 6 Dermott Hill Park. Having been out on the night of 10 August 1971 he said he came home around midnight and was then woken by his wife later on. As a result of this he got up and he recounted two observations over a period of approximately 20 minutes. Looking out a back window of the house he saw soldiers mistreating civilians on the Springfield Road; looking out of a front window, which provided a view of the junction of Whiterock Road and Dermott Hill Park, he saw a man lying in the middle of the road. As regards the first observation he said that from the back window he saw a group of people being held by British soldiers, spread-eagled and the soldiers were striking them with batons. The witness said he heard a couple of shots whilst observing this. As regards the second issue, Mr McCourt said he saw the man lying in the middle of the road, his head towards the Mountain Loney and feet towards Springfield Road. He said the man was wearing a white vest (also referred to as a singlet). I do not consider much turns on the differences between vest, singlet or shirt at this remove of time. What is important is that the garment was white. The witness said the man had nothing in his hands, and there were no guns around. He also said there were two soldiers present, armed with rifles. It was between 4.00am and 6.00am. The man was lying on his stomach according to the witness and he observed a blood stain “the size of a dinner plate” on his back. Mr McCourt said the soldiers moved the man by grabbing him under each arm and pulling him away in the direction of the

Springfield Road. He could therefore see a blood stain on the man's front. He thought he was being moved to allow traffic through and he said that "their method of shunting him across the ground would only have worsened his suffering." He said the movement of the man took him out of his view so he did not know where the man ended up. He then says he saw a soldier in his garden, who he shouted at as a result of which soldiers entered his house, but they left after Mr McCourt explained the children were in convulsions.

[44] When questioned, Mr McCourt was unsure of the details of times. He was also unsure of exactly where he saw the man on the road. He said that he did not see the man actually being shot but he was able to offer a description in his evidence of him being 40-45 with a full head of hair and wearing a white garment. He also described the hair as longish or wavy near the bottom. Apart from the white garment the other descriptions were given in a later statement. He clearly described the man being moved by soldiers. Other details he gave have some relevance, namely he manned barricades in the area, to protect against the army, although small. He said that he saw the Doyles being beaten in their garden and that he heard some shots in the area which he thought might have been coming from Turf Lodge.

[45] Mr McCourt did his best to assist me. He attended court using a rollator and he clearly had some difficulties remembering specifics which meant that he appeared confused at times. That is understandable as he, like many others, cannot recount exact details. However, he was clear on two matters. First, he was sure about the man on the road with the white garment and I rely on that evidence. He was also clear that the soldiers moved this man off the road; again I can rely on this evidence. Other parts of the evidence I will assess as part of the overall picture.

[46] Mr Joseph Marley attended to give evidence having made a statement to CSNI of 4 April 2019. He also referred to an account given in an email dated 23 August 2012. Mr Marley produced some contemporaneous photographs which he found from the time and which I have found particularly useful and reproduce

here with his permission. It is clear that Mr Marley lives outside the jurisdiction. He replied to a comment made on a website about this case in 2012 and thereafter he came forward. In my view there is nothing sinister about his motives.

[47] At the time of events Mr Marley was 19 years of age and he lived at 5 New Barnsley Grove with his parents. I note in his statement that his father was a cousin of Joseph Corr. Mr Marley explained that, prior to these events, people in New Barnsley were concerned about Loyalist gangs coming into the area intent on attacking and burning out houses – so local men patrolled and kept watch. On 11 August 1971 he said that young men had gathered outside because there was movement in the Mountain Loney area; he referred to bin lids as a sign of this. He said that, along with his father, he joined men and proceeded to charge up the pavement (which he said was elevated from the road by about six feet) in the direction of the Mountain Loney, thinking it was Loyalists coming into the area. Mr Marley then said that without warning the civilians were fired on. He said the civilians were unarmed save stones. He said no one had the slightest idea that the Paras were there. He said one young lad was shot in the arm. He said that along with his father he brought the lad to No. 201 for first aid. He said that only 41 years later did he find out Mr Corr and his son were at that house.

[48] Mr Marley could not assist on the movements of Mr Corr and Mr Laverty prior to being shot or after being shot. He was questioned at length about his version of events of the crowd charging up the pavement and the young lad being shot. I have reviewed this evidence and having done so I cannot extract a clear and reliable account which assists me in this inquest. Mr Marley's photographs have been helpful to me but I am not satisfied that I can rely on his account of the crowd being shot at or the child being shot. I accept that Mr Marley was probably out on the street with many others, but otherwise this account does not assist me particularly save that I will take it into account as part of the overall picture.

[49] All of the other civilian evidence has been presented by way of Rule 17 or at common law as the witnesses were either deceased or excused due to some incapacity or untraced. Unfortunately, few of these statements were taken from the time and I have not had the benefit of questioning or observing the witnesses. I have read all of the statements and I will now record where they have assisted me.

[50] Mr Richard Laverty, uncle of the deceased, identified the body of Mr Laverty and his statement was read into the inquest by agreement. Mr Patrick Kearney, brother-in-law, identified the body of Mr Corr and his statement was also read in. Mrs Eileen Corr is the widow of Joseph Corr and I received two statements from her, one from some date prior to 27 October 1971 and another undated but presumed to be contemporaneous to events. In the first of these statements Mrs Corr said she went out onto the street with her husband around 3.40am because there were terrible riots going on, bin lids were banging, everyone was shouting "get up, the soldiers are in." Mrs Corr returned home and that was the last she saw of her husband.

[51] The statement then dealt with Mrs Corr's attempts to locate her husband before she found out he was taken to Musgrave Park Hospital. She visited her husband there and recalled him saying he was with Mr McEvoy when shot.

[52] In the second statement Mrs Corr expanded. In this statement Mrs Corr stated that it was the soldiers coming into the area from Dermott Hill which brought people out after the bin lids were heard. She then referred to hearing shooting when she went towards the Springfield Road. This was from soldiers but she did not say where. She referred to a large crowd of people gathered near the Springfield Road. She insisted her husband did not have a weapon with him when he left her, nor did he keep a weapon.

[53] I place some reliance on these statements as they are contemporaneous. They establish that people left their houses that morning upon hearing bin lids and there was a crowd of people on the streets.

[54] Mr Joseph Corr Jnr is deceased but two accounts were read in from Paul Mahon interviews and a statement of 4 November 2010 in manuscript witnessed by a barrister, Ms Bobbie Leigh Herdman. From these sources the following emerges. Mr Corr Jnr was with his father the night he died but he was separated from him when he was shot so he does not provide any eyewitness account of the core event. His account also differs from that of his mother in that he said the reason why he left the house was because the Loyalists were coming. He did not mention his mother being out. However, he did say that he along with a group of other people went up the road towards the Mountain Loney and then the shooting started. He said everyone panicked and ran; he helped someone who was injured on the arm and he says he saw an injured man lying on the pavement. Mr Corr also made reference to later events in terms of location and treatment of his father but I rely on Mrs Corr's statements for those matters as they were given at the time. Other than that, his evidence corroborates the fact that people came out onto the street that night to find out what was happening and there was shooting. I will consider that as part of the overall picture. I discount the allegation that Mr Corr Snr was interrogated after the shooting.

[55] Mr Gerard McConville, in his interviews with Mr Mahon, states that he was on the street that morning with other people to defend the area. He said this was due to a risk of attack from Loyalists but then they realised it was the Army. He said 100-200 people were involved and that the Army responded to stone throwing, first by rubber bullets, then live rounds. He was hit by a ricochet off a railing and received first aid for a leg wound.

[56] Mr Oliver Pollock's evidence also comes from his interview with Mr Mahon. This witness was untraced. The account given describes two shootings in the area,

one of a girl and another of a man opening a window, unrelated to this incident. There is insufficient detail in this to give it any probative value at all and so it does not assist me.

[57] Annie Kerr was medically excused from giving evidence but her account from an interview with Paul Mahon was read. She lived at 10 Divismore Crescent in 1971, near to the Corr family who lived at 24. Her account referred to seeing Mr Corr on the night in question and so I have considered it as part of the overall picture.

[58] Mrs Kerr said that she heard bin lids rattling around 4.00am and she went to the door. She says she saw the Corrs - namely Mr Corr and his son Joseph - she joined them and with her husband walked to the top of the Whiterock Road. In her interview she said there were a lot of people about "the whole of Ballymurphy and New Barnsley was out on the Springfield Road, hundreds of people." Then there was shooting and everyone ran. In her interview Mrs Kerr said that before the shooting started Mr Corr and his son were with her going towards the Mountain Loney, and that when they got to the grass verge they were standing talking for a couple of seconds and then shooting started.

[59] Mrs Kerr referred to seeing some "maltreatment of young lads by the Army." She referred to conversations with Mrs Corr, particularly that Mr Corr had been found at the Doyles. She referred to helping to hide boys described as "volunteers" in her house from the Army. She also referred to a young lad being shot on the hand. Some of this conflicts with other accounts given. Mrs Kerr denied any shooting directed at the Army. I will take her evidence into account as part of the overall picture. At this stage I can say that it is of use in placing a considerable number of people on the street, including Mr Corr, who were progressing up the Whiterock Road towards the Mountain Loney.

[60] Margaret Thompson is an untraced witness who was interviewed by Mr Mahon. She lived at 4 Dermott Hill Road. Her account referred to an injured

man having crawled to the house of a Mrs Benson and then to the Doyles where he was taken away by the Army. Mrs Benson was pregnant and very upset but she could not be traced for this inquest. She says she shouted at soldiers who were giving the Doyle boys a beating. She said, in contradiction to the others, that people came out and congregated at a barricade at the bottom of Dermott Hill by the post office. Again, this confirms people were on the street. I will take it into account in the overall picture.

[61] All of this civilian evidence to date seems to refer, if at all, to the movements of Mr Corr on the night in question. There is less known about Mr Lavery and it is to his movements I now turn. His brother's evidence, Terence Lavery, has been put before this inquest in written form only as Mr Lavery was excused from attendance on medical grounds. This evidence is related to that of a military witness M167 who was also excused on medical grounds. I received a specific bundle of all relevant material in relation to both witnesses which I have considered before reaching my conclusions about what weight I can place upon all or any of this evidence. This process has been difficult. I start with Mr Terence Lavery's evidence which I set out in summary.

[62] Mr Lavery made statements to the Association for Legal Justice on 19 August 1971, an inquest deposition of 12 October 1972 and he was interviewed by Mr Mahon on 23 February 1999 and 16 March 1999. He gave a further account to KRW Solicitors on 20 March 2010. All of this material was put before the court for consideration.

[63] Mr Lavery was also convicted of riotous behaviour after his arrest on 11 August 1971. That conviction was referred to the Criminal Cases Review Commission ("CCRC") and overturned by Belfast County Court on 10 February 2015. The basis upon which the conviction was overturned has subsequently been disputed by the military witness M167 who gave evidence in the original criminal proceedings. In particular, M167 maintains that he did not retract his evidence or his

statement to HET and he complains that he was not called to the appeal hearing. An important aspect of Mr Laverty's evidence is that he effectively says M167 is Soldier B. That is disputed by M167 who has had separate representation in this inquest. I have considered the representations of his counsel in reaching my conclusions. I have also been informed that Mr Laverty had brought a claim for compensation against the Army for his treatment when he was arrested on the night in question. That claim has not been determined as yet.

[64] There is a lot of material emanating from Mr Laverty but there are serious question marks about its overall reliability. Fundamentally, in bringing his appeal against conviction through the CCRC Mr Laverty accepts that he lied under oath to the original inquest in 1972. So, without going into all of the details it is impossible to say where Mr Laverty was on the night in question. Initially, he said he was with his brother John and they went to stay overnight with his sister at Norglen Parade, Turf Lodge. He initially said he and his brother came outside on hearing bin lids and they took different routes so he was separated from John Laverty. Then he said in applying to overturn his conviction that "at the time I told the inquest that John and I had gone looking to check on my sister Matilda who lived in Turf Lodge. This is not true."

[65] In any event, and on any account, Terence Laverty was not with John Laverty when he was shot and he did not witness events.

[66] What Mr Laverty did say in his initial statement is of more controversy. There he said that when he arrived at the main Whiterock Road he was arrested and was held near the junction of Springfield Road and chained to railings for about one and a half hours. He said that a soldier who came down the road from the direction of Dermott Hill then said "I shot another Irish bastard behind the barricade." In later accounts he said this soldier was M167. He said that he recognised this soldier and could identify him at the 1972 inquest as he gave evidence there. In later accounts Mr Laverty also made allegations of ill-treatment against the army. These

are serious allegations, including being anally penetrated with a baton. These allegations are denied, are yet to be adjudicated on, and are matters upon which I reach no view. I have already raised concerns about Mr Laverty's inconsistent accounts of the night in question. His evidence is not reliable regarding his contact with John Laverty and so I put it out of account in this inquest.

[67] As regards the identification of M167, on the basis of what I have heard, I cannot accept that evidence as probative. There is a signed deposition from M338 which confirms that, he as an RMP corporal, took a statement from Soldier B on 21 July 1972 at Aldershot and which he read to the coroner. He also handed the coroner an envelope containing the name of Soldier B (that cannot now be found). I conclude on the balance of probabilities that B did not actually give evidence at the inquest and accordingly any identification by reference to attendance at that inquest is not reliable. On the basis of Terence Laverty's evidence, which is untested here, I cannot possibly make a positive finding that M167 is Soldier B. I will comment further on Soldier B and M167 in due course when I come to examine the military evidence.

[68] With regard to Terence Laverty I find that the interviews with Paul Mahon throw up further inconsistencies in his account. The nature of his injuries has changed. In particular, and by way of example, when speaking to Mr Mahon, Terence Laverty gave an account of M167 holding a gun to his head and pulling the trigger, using him as a barricade and firing shots over him. This was not recounted to the Association for Legal Justice ("ALJ") in the original statement in 1971 despite the very serious nature of the allegation. The account to Mr Mahon is highly confusing about the identities of Soldiers A and B who Mr Laverty says may have been M167 and M351. No explanations have been given to me as to these inconsistencies.

[69] Of further concern to me is that Terence Laverty's father's statement conflicts with that of his son. In the original statement given to the RUC by Thomas Laverty

of 12 August 1971 he said that the deceased was in the family home, went to bed at 12:30am and was woken by bin lids at 3:30am so went out. In his deposition for the original inquest Mr Lavery changed the identity of the son who went out to Martin.

[70] This is a worrying picture which strengthens my view that the evidence of Terence Lavery cannot be relied upon in this inquest.

[71] One other piece of evidence has been relied on, namely a judgment of an appeal court in relation to criminal injury claims brought by the families of the deceased. I am wary about following this judgment too closely given the different context of that case and the case I have to decide. However, I note that Judge Gibson found that there was a riot and that the deceased were at the vanguard of it. Interestingly, it appears that Mr McEvoy who was in the company of Mr Corr, gave evidence. The judge records that:

“As soon as persons were seen coming down the road the crowd, including Mr McEvoy and Mr Corr crossed the barricades and started up the Loney throwing stones. Mr McEvoy retreated at the sound of gunfire but Mr Corr was not seen again till after the shooting. After the event Mr Corr was found lying on the road about 100 feet on the upper side of the barrier and Mr Lavery some 10 or 20 feet beyond that. It is clear therefore that each of them had advanced some 200 feet from the road junction and had crossed the defensive barricade, obviously with aggressive intent.”

[72] It is not entirely clear that Soldier B gave evidence but he may have. In any event, the judge recorded as follows:

“The positions in which they were found after the shooting had subsided would suggest that they may have been gunmen, but the fact that they were shot in the back whereas Mr B said the men at whom he shot were facing him, would tend to the conclusion that the deceased were not the gunmen. Taking into account also the trail of blood which led from the area and the absence of any guns on or about the persons of the men when the army eventually reached them, I think that the balance of probabilities is against either of them having had guns. The age and excellent record of Mr Corr and the absence of any suggestion that either was connected with the IRA would also go to negative the conclusion that they were gunmen.”

[73] The appeals were however dismissed on the basis that the judge considered the deceased were part of a riot.

VIII. MILITARY EVIDENCE

[74] I now turn to the military evidence I have heard. I start by setting out the statement of Soldier B which was provided to the inquest in 1972. Soldier B has not been identified in this inquest and so I have been unable to test this statement as it relates to events on the night in question. This statement is proffered by the MoD as the prime justification for the shooting of the deceased. It is therefore appropriate to set it out in full as follows:

“On 10 and 11 August 1971 I was employed on IS duties with my unit in Belfast, Northern Ireland. I was deployed in the Whiterock Road area. About 0415 hrs 11 August 1971 I was point man in a foot patrol

proceeding down Whiterock Road towards Springfield Road. I took up position in a pathway of one of the houses on the uneven numbers side of Whiterock Road. I saw 3 or 4 male persons crawling up Whiterock Road towards my position. As I was observing these males 2 of them fired past my position straight up Whiterock Road. One of them was firing a machine gun on automatic fire, similar to an issue 9mm sub-machine gun. The other was firing a pistol. Then they stopped firing, they stood up and started to retreat down Whiterock Road towards Springfield Road.

I stepped out from behind the hedge from which I had been observing these persons intending to call on them to halt but before I could shout to them the one carrying the machine gun brought it up to an aim position. I immediately fired 6x7.62 rounds at these persons and they all dropped to the ground.

As I did this I was fired on from the Springfield Road junction. I immediately went for cover. I know I must have hit at least one of them because I could hear him moaning and shouting to someone for help.

Shortly afterwards when the firing had stopped I made my way down to where these persons had fired from and I saw one male person lying on the pavement face down. I also saw a trail of blood leading away from that spot up a pathway to one of the houses and off into the garden.

I continued my advance down the Whiterock Road past the barricade and across the Springfield Road. I had reached a point about 20 to 30 yards down the Whiterock Road when I came under fire from the direction of St Aidan's Primary School. I could not pinpoint this gunman so I returned no fire on this engagement.

I continued on this operation with my unit until I was recalled to my unit lines and stood down.

On 20 July 1972 I was shown a black and white photograph of a male person by RMP, on the rear of which was printed Joseph Corr and attached to it was a label marked KC/1. I could not recognise this person."

M166

[75] M166 was a medical orderly to C Coy 1 Para. He was called to attend to two males believed to have been shot by members of C Coy. That is recorded in the deposition for the original inquest and in the logs which I will come to. M166 provided a witness statement to the CSNI dated 19 August 2018. Exhibited to that he provided a deposition he made to the original inquest into the death of John Lavery and a note of a conversation with HET was also provided dated 8 December 2009. This witness marked a body chart setting out the location of the wounds of the man he treated. That was also exhibited.

[76] When M166 came to give evidence he frequently commented that he did not have a very clear recollection of events but he relied on his statements. He explained that he was a medical orderly not a medic. He said that he was called forward from a static position on a pathway leading to Black Mountain to attend to the two men. He says he came across the first man, who he thinks was Mr Lavery, on the

pavement outside 217 Whiterock Road. He said that was lying flat on the pavement, face down. M166 turned him over and knew he was dead. He said that he moved on to the second man, who he thinks was Mr Corr, who he says was lying in the middle of the pavement of Whiterock Road outside number 211. During his oral evidence M166 said he could not be sure about the house numbers himself as he thinks they were probably forwarded to him when he made his deposition for the original inquest some time later.

[77] M166 said he went over and dragged Mr Corr to about 12 feet from the first man as this was a safer position. He said in his original statement he could hear a faint heartbeat. In evidence he said that might have been his own. He said that put on a shell dressing, put the man in a position of comfort and that was his involvement finished. He said that ambulances had been called and shortly after he treated Mr Corr, Soldier C, his unit medical officer and Soldier D arrived and took over. M166 gave evidence at the original inquest. He said that he made no notes at the time and he effectively said he did all he could within his remit. He said that did not involve administering morphine. He said he treated these men as he would a soldier. He was shown photographs at the time he made his original deposition and recognised both men. He also said that he observed no guns on the bodies or near the bodies of the men. Finally he said that he could hear firing, somewhere at the bottom of the hill.

[78] M166 was the first responder effectively providing first aid to the deceased. Having considered his evidence it is clear that the fine detail is hazy. However, he clearly established that the men were outside houses on the Whiterock Road, on the raised part of pavements, although he accepted that he may be wrong about the actual numbers. He said that one was ahead of the other, i.e. looking down Whiterock Road, Mr Laverty was first, Mr Corr second. He said that brought the two men close together: one was dead, Mr Laverty, one alive, Mr Corr. I have no reason to doubt M166's evidence that he did all he could for Mr Corr, within his role, by applying the shell dressing, given that Mr Corr was in need of specialist medical

treatment, which was being attended to, or that he treated this man less favourably than he would a soldier. M166 established the timeframe of the incident between 4:00-4:30am. This witness also established in his statements that there was shooting going on when he was attending to the bodies and so he had to be careful. In addition he recalled a barricade about 400 feet further down the Whiterock Road from where the men were found.

M546

[79] M546 was a lance corporal, section commander in charge of C Section. He made a statement to CSNI dated 14 August 2018 and had been interviewed by HET on 7 February 2012, the note of which he exhibited. M546 was a straightforward witness who did his best to assist this inquest although he clearly could not remember some details. He said he could vaguely remember coming down the Mountain Loney with his platoon. It would have been 7, 8 or 9 Platoon but he could not remember which went first. He could not recall any shooting but he thought he saw a barricade – a point he corrected in evidence by saying he could not remember. He also said in evidence that it was quite dark. He said other soldiers were ahead of him but he could not remember their names. He said he saw a man on the raised pavement at the left hand side of the road; he called for a medic, and shortly after someone came to give the man first aid. He said the man was outside 207-205 Whiterock Road and marked this on a map for the HET.

[80] I allowed this witness some time to read over Solider B's account of what happened and I am grateful that M546 took some time to do this before he commented on it. His immediate response was "I'm amazed." He said he could not recall any machine gun fire. He also said "it wouldn't happen – it's not the way we work. Why did I miss all this if I was there?" He was not asked to make a statement at the time and he was adamant in his evidence to me that if a soldier had fired in the way B claimed there would have been an investigation into that. He actually described B as "doing a Walter Mitty."

[81] He said a 'point man' would not be sent out for a recce and also that other soldiers would be directly behind the point or lead man and so would have known what was happening.

[82] Overall, M546 cast considerable doubt on Soldier B's account and, as I have said, expressed genuine amazement about the account given by B. He thought his HET account was accurate and was clear that he was not asked to make any statement at the time. I found M546 to be a particularly open witness who clearly wanted to assist me and I place reliance on his evidence in relation to events.

M432

[83] M432 was a private and member of 1 Para, C Coy, 7 Platoon. He was a driver of a 'PIG' APC vehicle. He was driving the vehicle down the mountain road when he says it got stuck and other vehicles could not get past. So he said the soldiers got out and proceeded on foot. He thinks that because of this, his Platoon went behind 8 and 9. As he went down the hill with his platoon, he said he could hear high velocity shots in front from the general direction he was heading. M432 provided a statement to CSNI on 24 July 2018 and he also referred to his interview with HET on 22 April 2013, the notes of which were exhibited.

[84] M432 gave some evidence about seeing the deceased. He was also questioned about the Yellow Card although he had not opened fire himself. He was questioned about his HET account and disputed some contents of that which I will come to. He was also questioned about knowledge of other incidents regarding treatment of prisoners, unrelated to 11 August 1971. Following from this substantial evidence I summarise the following issues which are of assistance to me in reaching my conclusions.

[85] M432 was of assistance in telling me that he saw the injured men above a grass bank near to houses on the Whiterock Road around number 215. He said the men were near, (he seems to put Mr Corr higher up the road than Mr Laverty) and he saw a medic with Mr Corr. He described a bloody handprint on a door of a house near to Mr Laverty's position and that stuck in his mind. Paragraph 26 of his statement reads:

"There were no weapons there and my immediate thought upon seeing them was that they did not look like terrorists. I remember thinking that both just looked like they were going on or coming off a night shift at work. The thing that struck me was their location, if they had been shooting at the army then I would have thought they would have been behind a wall or something like that. I would not have thought they would have taken on 60 or 70 members of the Parachute Regiment coming down the road. However, I assume that if they were shot then there was a reason, although I do not know what that was. I did not witness the shooting."

[86] M432 said that as he continued down the road there was "pretty heavy fire" from the Divismore Crescent and soldiers returned fire in what he described as a gun battle - he recognised high velocity Thompson Submachine gun ("SMG") fire.

[87] M432 was not shown the HET interview notes for comment at the time they were composed in 2013. He pointed out inaccuracies such as the fact that he was not the commander of 6 men at the time. He also disputed the comments recorded about M167 and M351.

[88] Mr Dave Hart of HET has, in a statement I asked to be obtained, confirmed the accuracy of his notes. The note of this aspect of M432's evidence is "he knew

M167 and M351 but he did not see them that night.” I pause to observe that the two soldiers’ names were put to him by HET as M432 says. M432 also says his knowledge of the two was limited as they were not in his platoon. The record continues that he was of the impression that both these soldiers were “hot heads” but he would not explain that further. I take from the material I have that this conversation happened. I cannot think Mr Hart would have recorded something like this incorrectly so I accept it was said. That accords with the clarification sought from Mr Hart. Equally, I accept M432 is not happy with how this is regarded and he retracts what he said. That is fine because an opinion about character like this described as “an impression” is not something that would be determinative in a fact finding exercise without other objective evidence.

[89] M432 gave evidence about the use of the Yellow Card and as regards that I found M432 to be straightforwardly trying to explain its application although in the abstract. I take nothing more from that. I found M432’s description of the ill-treatment of prisoners to be credible. He did not retract that evidence and he had no reason to lie about that. How far that takes me in deciding the inquest is another question as this is a separate matter which is not something I need make findings on. Overall, M432 assisted me regarding the operation and he repeated the fact that he was not asked for any statement after the event despite the fact that whilst not witnessing the shooting he saw the aftermath. He was also clear in his evidence that he did not know the specifics of the deployment plan and this was not talked about after. M432 said it was above his rank to report the ill-treatment of the prisoners which to my mind had a ring of truth about it.

M402

[90] M402 was the Regimental Police Sergeant in 1 Para which meant that he had a role in relation to the maintenance of military discipline. He made his way down the Mountain Loney with Battalion HQ. He made a statement with CSNI dated 7 July 2018. Included with this were notes of HET interviews dated 30 January 2012 and

28 February 2012. M402 gave evidence about the location of the injured men which he described as being in a car park area on a slope, which they had been brought to. M402 explained this by the use of photographs provided by TBM settling on an area which is a layby. I was not convinced that this location squared with the majority of the other evidence and so I think M402 may have been mistaken in his recollection. However he recalls a barricade. He also gave evidence of having arrested a man that morning in possession of ammunition. M402 clearly was able to arrest as this arrest sheet demonstrated. It was put to him that he also arrested the Doyle brothers and he may have done although there is no definitive record of this and as this is not in any event central to this inquest, I make no finding either way on that issue.

M380

[91] M380 was a medical sergeant in the Royal Army Medical Corp attached to 1 Para. He gave evidence about the medical care given to the deceased men. He made a statement to the CSNI dated 22 May 2019 and he also had made a deposition to the original inquest as Soldier D although he said he had no actual memory of doing that. He said he was attached to B Admin Company not the rifle companies A, C and D. M380 was in direct contact with the Regimental Medical Officer who was M2295. He said that as he moved forward with elements of HQ Battalion he was asked to attend to injured persons and moved forward with M2295 who examined both men, declared one dead and gave morphine to the other. M166 was there and he saw the shell dressing on the injured man. He added another dressing. He explained that the men were on the pavement at the top of a raised bank. He marked this on a map at hearing.

[92] He explained that the ambulance came about 20 or 30 minutes later and the men were photographed by the RMP. He said the ambulance was delayed as they were under fire. He accompanied the men with M438 and a driver to Musgrave Park Hospital.

[93] In terms of gunfire he said he heard sporadic gunfire before being summoned: “not a great deal, but we heard it.” He thought the men had been moved by the time he saw them but he was not sure of this.

M382

[94] M382 was a captain in the Army at the relevant time and a qualified doctor and trainee surgeon based for a short time at Musgrave Park Hospital’s military wing. He made statements to CSNI on 29 April 2019 and 23 May 2019. He was also referred to contemporaneous documents, namely a deposition and a statement from the time which were supposedly made by him. Neither document was signed or dated. A striking feature of this witness’s evidence was that he said his name had been attributed to the documents in error as he had not had any medical involvement with the deceased. I made sure that this witness had time to see all of the documents that referred to him, including Mrs Corr’s statement, and having done so the witness answered me in a thoughtful way. He said that while he had been posted to Musgrave Park he had not treated Mr Corr. He stressed that he was not qualified at that time to carry out the treatment. He also highlighted a number of mistakes in the reports from a medical perspective. He said he had no recollection of certifying the death of Mr Lavery, ascribed to him. He did not recall meeting Mrs Corr and her statement did not change his mind in any way about his involvement. Even with the passage of time M382 said he was sure of all of these matters. It is significant that the reports ascribed to him were neither signed nor dated in my view.

M344

[95] M344 was a member of 7 Platoon, C Coy, 1 Para who was part of the advance. He made a statement to Devonshires Solicitors of 24 April 2018 and he was also interviewed by HET on 17 April 2012. This witness did not give evidence as to the actual shooting but he assisted me in a number of respects. Firstly, he said the

purpose of the operation was to remove barricades. Secondly, he thought 9 Platoon led the advance. He thought each platoon had 18-20 men and that there was a gap of approximately 100 metres between each. He then said that as he recalled it, the advance temporarily halted as he heard firing of a low velocity nature coming from Springfield Road. He described this as coming from a Thompson SMG, an M1 Carbine and a shotgun. He says he did not see any muzzle flashes or receive any indication that soldiers were under fire but he heard SLR fire returned, he presumed from 9 platoon.

[96] When they resumed he said he saw a man in a white shirt, badly injured, outside 213/215 Whiterock Road. He was receiving treatment from a medic – M166. He said he succeeded in clearing a barricade which was low level and he also confirmed that M345 had put out a light with his rifle butt when an occupier refused to dim it and he saw rough treatment of a prisoner by the RMP. Of all of these matters, M344's description of the advance was of assistance to me in terms of his evidence.

M371

[97] M371 was a sergeant in 7 Platoon, C Coy, 1 Para. He had been involved in an internment arrest and he described himself as a bodyguard for Major M405, Coy Commander. The witness provided a statement to CSNI on 27 June 2018 and he had previously given an interview to HET in 2012. This witness had no direct evidence to give. He referred to reports of engagement between the front of the company and gunmen, who he thought were IRA, at the barricade of the junction between Whiterock and Dermott Hill. He said it was thought there was a gunman/men at St Aidan's school. He assumed this would be part of radio transmissions. He did give some information regarding the make-up of 9 Platoon as he said M349 a second lieutenant was in charge and he thought, although could not be sure, that M365 was 9 Platoon Sergeant.

M2294

[98] M2294 was the 1 Para Adjutant in August 1971 and was most likely the watch-keeper by which he received reports from the Battalion Companies and passed summaries on to the Brigade, in this case 39 Brigade. He had no recollection of the shootings of Mr Corr and Mr Lavery but he gave helpful evidence of the structure of reporting and he also explained the available logs and the 'O Group' meeting relating to this event. In particular, he said that from his knowledge a soldier who shot a civilian would have to report that to his Platoon Commander who in turn would report to the Company Commander and from there it would go to the Adjutant or directly to the Battalion Commander. He said if information of this nature had come in, it would have been recorded in the radio logs up the chain of command. He did not think that this process had been followed in the case of Mr Corr and Mr Lavery based upon what was recorded. He helpfully took me through what was actually recorded in the logs, which I set out verbatim for the relevant period as follows.

[99] There are three forms of log recording relevant to this case, two of which have been made available to me, one of which has not been obtained. That is the first important point to note. As M2294 explained, the first level is a Battalion log. M2294 said that he would have maintained that log on 11 August 1971 as part of his duties as watch-keeper. However, there is no log available for me and so I cannot see what exactly was recorded by the first responders on the day in question. What I can see are the Brigade logs, in this case the relevant Brigade is number 39. I can see the record of messages received or passed to 1 Para on the day in question. I have also been provided with the Headquarters Northern Ireland ("HQNI") radio log which received messages from each of the three Brigades operating in Northern Ireland on the day including 39 Brigade.

The Logs

[100] I start with the HQ log which covers this day. This covers the whole of NI and undoubtedly paints a picture of widespread unrest and violence. The 39 Brigade entries are relevant to this incident, in particular serial 19 recorded at 0410 from 39 Brigade which reads:

“Shooting in Turf Lodge, 1 Para dealing”

Also serial 24, recorded at 06:30 from 39 Brigade which reads:

“WHITEROCK XRDS. Sniper covering barricade which is probably booby trapped

1 PARA area

Totals: 35 arrests made, also two wounded men taken to MUSGRAVE

0605: Wounded soldier evacuated by vehicle to Musgrave”

The 39 Brigade logs also contain the following relevant entries starting at serial 50, 0220 from 1 Para:

“21C will pick up Tractors and arrest teams from GIRDWOOD at 0300 hrs
1 DWR and RMP informed”

Serial 69, records at 0416 from 1 Para:

“Op started and under fire S Centre Area”

Serial 67 from 2 Para records at 0415:

“Shooting going on in Turf Lodge - 1 Para dealing”

Serial 71 also records that at 0425 1 Para sent a SITREP as follows:

“Clearers S Part penetrated. B4 (meaning D Company) came under fire when crossed barrier. Machine gun to R dealt with it and are pressing on.”

Serial 82 at 0452 from 1 Para reads:

“B3 (meaning C Co) moving down
WHITEROCK/SPRINGFIELD RD
2 people captured, 1 believed dead
2 c/s B3 under heavy fire pushed down to take the
barricade

HQNI Informed”

Serial 86 at 0459 from 1 Para reads:

“2 wounded men taken by B3. 2 prisoners at same time.
2 more barriers ahead

HQNI Informed”

Serial 91 at 0518 from 1 Para reads (although this is an incomplete record due to the quality of the logs)

“2 wounded details

B3 under heavy fire from Springfield Roadblock. They took barrier and found 2 wounded lying on other side.”

This message may have contained further details and the logs then skip to serial 93 so Serial 92 is missing and it may or may not have been relevant.

Serial 104 at 0530 reads from 1 Para regarding the landing of a helicopter:

“Hawkeye to Grid 295743. Panels laid out – no smoke though.”

Serial 106 from 1 Para reads at 0536:

“B3 sniper in school at Xrds Whiterock/Springfield
B4 dealing with barricade S
B5 as far E as Glenalina Park
1 nail bomb”

Serial 112 at 0555 from 1 Para reads:

“Badly wounded man (in chest) wants helicopter to evacuate
Can’t contact, going through Ops Room”

And a message to 1 Para at the same time reads:

“Hawkeye not equipped for task2

Serial 115 at 0602 from 1 Para is a SITREP which reads as follows:

“SITREP

Sniper fire from school. B4 working round to start on second phase

Prisoners Total: 35 Glenalina Park
2 wounded”

Serial 118 at 0613 reads to 1 Para:

“Ambulance going to you now”

Serial 121 at 0610 from 1 Para reads:

“Helicopter going to Musgrave Hospital without our casualty. “

Serial 122 at 0610 to 1 Para is hard to decipher in its entirety but starts with:

“Ballymurphy - women and children sheltering very distressed but safe.”

Serial 136 at 0630 from 1 Para reads:

Sniper in area WHITEROCK X-rds, Barrier, body trapped.
35 arrested. 2 wounded men in MUSGRAVE also one soldier wounded in chest.

Serial 137 at 0631 from 1 Para reads:

“35 arrested removed out of our area- possible at VICTORS’ loc (SPRINGFIELD RD. 2 injured taken to MUSGRAVE.) Still trouble with sniper in flats.”

Serial 146 at 0654 from 1 Para then reads:

“B4 S of BULLRING
C2 WHITEROCK. All quiet Phase 1
People arrested at 1 DWR loc. Mil
Witnesses will have to go to this loc

B5 will have to go in too. All picked up from houses where understood shooting occurred.”

Serial 148 at 0655 from 1 Para then reads:

“Firm in loc. All quiet. B3 is firm in Phase 1 psnm.
Permission to search flats from which fired upon initially.
Cursory search has not revealed any wpns
WHITEROCK - 2 barricades - 1 June ROCKMAN ST
2 June BALLYMURPHY/WHITEROCK
MONAGH clear
BALLYMURPHY clear”

Serial 151 at 0708 to 1 Para asks:

“When can you release HOLDFAST equipment”

The reply from 1 Para reads:

"3 barricades - esp one in B1 loc - still to be done. 2 on WHITEROCK also have to be dealt with. Can't release here before 0900."

Serial 153 at 0718 from 1 Para reads:

"A2 can have light eqpt but will be 1½ hrs before large eqpt free. Barricades formidable."

Serial 163 at 0746 from 1 Para reads:

"Explosion - nail bomb found, Ballymurphy Crescent/Drive junction; sniper fire factory 200-300 yds in Whiterock Drive."

Serial 195 is recorded at 10.00 from 1 Para:

"1 double barrelled shotgun found by C29 in flats North end of Norglen Parade. All quiet few groups of people shopping. 100 total through whole area. Ballymurphy same."

Serial 200 at 10:18 from 1 Para reads:

"Loaded pistol recovered by 54 B by 25 Lt Regt RA. On grassy slope, at road junc Norfolk Rd/Drive junction."

Serial 202 records a message from ATO at 10:30:

“

1. 0855 Springfield Rd barricade (Kelly's Bar) device in barricade was Claymore with 2lbs of gelly and 10lbs of shrapnel. Working on pull switch from short distance.
2. 0930 - 3 pipe bombs and one nail bomb each with 1/2 lb of gelly thrown into work yard of James Corry, they had been therefor for about 8 hours.
3. Escort is becoming very tired.”

Serial 240 is recorded at 1242 as the operation is coming to an end. It is from 1 Para:

“We want RMP to our location sometime. B5 has statements to make. Moving 1 hour.”

Serial 252 from 1 Para at 1300 reads:

“Redeployment completed.”

[101] In addition to these logs I was referred to the RUC Duty Officer's reports for the 24 -hour period ending 8.00am on 11 August 1971.

Serial 54 records:

“At 4:15am approximately fifteen shots were fired in the Ballymurphy area - Shots disturbed the residents who came out and started banging bin lids and blowing whistles.”

Serial 56 of the same log reads:

“At 4:45am the army shot dead a sniper on the Whiterock Road near Kelly’s Bar (junction of Whiterock Road, Springfield Rd). Body being taken to Morgue. Not identified to date.”

[102] M2294 also gave evidence to me that he assumes he was present at the O Group meeting which discussed this operation in advance. A handwritten note of this meeting was available which M2294 discussed in his evidence. He confirmed the operation was designed to clear barricades, described on the handwritten note as “Take Irish Free Belfast, remove roadblocks.” M2294 understood this as a reference to removing barricades in Ballymurphy to ensure there were no ‘no go’ areas. The handwritten notes are sparse but M2294 interpreted them and pointed out that the operation was to commence at 4.00am and that radio silence was to be maintained during that time, broken only by code word ‘sandcastle.’ Tractors were to be used and arrest teams were to be deployed. For the purposes of my enquiry M2294 told me that Phase 1 of the operation involved 1 Para D Coy coming from the south (along Monagh Road to its junction with Springfield Road and Whiterock Road) and C Coy coming from the north (down the upper Whiterock Road and on Mountain Loney to its junction with the Springfield Road). Support Coy were to be in reserve. Phase 2 was to see Support Coy and D Coy move into Ballymurphy proper with C Coy staying where it was. Phase 3 was on order.

[103] In terms of what C Coy had to do, M2294 said that in Phase 1 it was to clear its route using tractors, then to let Support Coy through. For Phase 2 it was to remain in the area it had moved through. And for Phase 3 it was to clear and search an area on the map C1 (not now available).

[104] Overall, M2294 helped me with interpretation of the logs and O Group. He was clear that he could not actually remember events himself. He was also clear that

if a soldier shot a civilian there was an established system whereby he would have to report it to the Platoon Commander who would report it to the Company Commander and from there it would be reported to the Adjutant or directly to the Battalion Commander. He was not aware of any of this happening. He gave a useful synopsis of the operation itself which accords with the 2 Para Report of Operations I have seen. These 1 Para actions took place in 2 Para Tactical Area of Operations – that report says “an operation was mounted by 1 Para to clear the barricades in Ballymurphy.”

M106

[105] M106 was a sergeant in charge of D Coy. He recalled that the Coy Commander was Major M103 and that M367 was shot and injured. He provided a statement to CSNI of 8 January 2019. He said he had no actual recollection of events himself and could not remember his citation. He said he did not recall anything that happened with C Coy that day including reports of the deceased. He thought Soldier F’s account did not accord with how M367 was injured. He did not think anyone in his section fired that day as nothing was reported to him. He did not agree that he was Soldier J. (Soldier J had been referenced as a Section Commander in the statement of Soldier A.)

Mr Samways

[106] Mr Brian Samways gave evidence without anonymity. He was previously designated M437. He confirmed he was part of the Special Investigations Unit (“SIB”) of the RMP and he took the ciphered soldiers’ statements A – I except H. He recalled reading Soldier B’s statement to the original inquest and handing up a name for him he had been given on a piece of paper. Other than that he could offer no real assistance as to who the ciphers were, how the statements had been taken and the delay in taking Soldier B’s statement.

[107] Mr Samways thought that his name was nominally recorded. The only incident he could specifically recall was regarding the shooting of Norman Watson in Armagh. However, in a straightforward and helpful manner, this witness explained what the proper investigation processes were at the time. He said that when statements were recorded from soldiers they were in their own name and ciphers for court purposes were added later – he did not know by whom. At an inquest the actual name would be given to the Coroner on a piece of paper. The witness confirmed that forensic methods of scene preservation were not used prior to 1974. Military weapons were not seized as a matter of course for operational reasons. Some SIB officers would carry Polaroid cameras to photograph the deceased to then seek identification from soldiers. The witness referred to the fact that internment was a very busy time. The witness confirmed in evidence that the delay in taking Soldier B's statement was unusual in his experience.

M368

[108] M368 was a private in 7 Platoon of C Coy and a radio operator on the day in question. He provided a statement to CSNI on 6 March 2019 and had previously been spoken to by HET in 2013. At the outset he was clear in disputing the HET note that M433 took over from him as radio operator and that they swapped weapons. The witness said he did not hear any report casualties had been shot or a request for a medic/ambulance over the radio. Therefore his evidence only related to the aftermath of events when he recalled his patrol finding two bodies. He could say this was on the raised area of pavement. He said he did not hear shooting. M368 said he had memory difficulties about all of this although he was asked to mark a map, which he did, and placed the bodies outside 217 and 215 Whiterock Road – Exhibit B4/06.

M365

[109] M365 was a Platoon Sergeant in 1 Para, C Company. His evidence was given towards the end of this section of the inquest and it focussed on whether he was in fact in 9 Platoon or 8 Platoon. In his statement of 24 February 2019 M365 said he was in 9 Platoon, but in his evidence he said that he was unsure and it may have been 8 Platoon. M 365 made two statements of 24 February 2019 and 2 March 2019 directly to Devonshires Solicitors and he spoke to HET and gave an account in 2012. He gave no direct evidence about the deaths of Mr Corr and Mr Lavery and he said he could not recall who shot them. This evidence was of limited value to me as regards establishing the circumstances of the deaths I have to examine. Given that I make no specific finding about which Platoon he was in, it may have been 8 or it may have been 9. Either way this witness had nothing to offer by way of direct assistance.

M433

[110] M433 provided an account to HET in 2013, some details of which he said were incorrect and he provided a statement to CSNI of June 2019. He was a member of 7 Platoon C Coy. He was involved in the operation, although he was not head of the advance. He said an advance party went forward and he heard high velocity gunfire when he was in the rear of an army vehicle. His evidence then turned to his own account after being deployed with three other soldiers just above Dermott Hill Way. He said there was a barricade across Whiterock Road near this junction. He also gave evidence of encountering a body at the side of Whiterock Road – he said it was lying on its back and the man’s head was towards Whiterock Road, feet to Springfield Road. He accepted the body may have been moved and he saw no weapons. As to position, he though HET may have wrongly suggested near 217 Whiterock Road.

General Sir Mike Jackson

[111] General Jackson made a statement to CSNI on 29 December 2018 and he gave oral evidence to the inquest. He said that he joined 1 Para in 1970 and was a captain in August 1971 with Battalion Headquarters. He said he held a hybrid position as community relations officers/unit press officer in 1971 becoming adjutant in November 1971. He thought it likely that he gave the press briefing which was quoted in the Belfast Telegraph on 11 August 1971 though he had no specific recollection of the briefing. He did not make a statement as to events at the time. He made the point that this event happened very early on in the Troubles, that there was no specific training apart from the Yellow Card and that it was “mayhem.” He says he heard firing; he could not say where from but had no doubt it was the enemy, the IRA. In terms of the newspaper article he had no direct recollection but said the information would have been provided by others to him.

[112] He had no knowledge of an RMP investigation and of Soldier B he said the notion of one man conducting a recce made no sense. He agreed that if a soldier fired he had to account for it. He could not explain why the Commanding Officer, Colonel Wilford, had no knowledge of any casualties or an internal investigation. He denied an aggressive intent by the Parachute Regiment. When the accounts of the Doyle brothers were put to him he was horrified. He denied any conspiracy to withhold information but said that procedural failings may have been down to pressures on the system at the time.

[113] In addition to the oral evidence, a body of military evidence was read into evidence following medical excusals and/or unavailability of deceased or untraced witnesses. I summarise this as follows.

M349

[114] M349 was a witness whom I excused from giving evidence on medical grounds. Therefore I have only been able to consider his written statement to CSNI dated 24 October 2018 alongside his RMP statement of 12 August 1971. M349 declined to co-operate with HET. This is an important military person because on 11 August 1971 he was the Platoon Commander of 9 Platoon, which were involved in the advance down the Whiterock Road from the Mountain Loney. He also made a statement in 1971. The CSNI statement is dated 24 October 2018. Attached to it is the RMP statement and other exhibits, however the maps are hard to decipher. The statement at para 26 says that 9 Platoon was the first unit to travel down Whiterock Road that morning. There is a particularly useful and descriptive account of what was happening at Paragraphs 26 and 27 of this statement, which I set out as follows:

“9 platoon was the first to travel down Whiterock Road that morning. Soldiers from C Company Headquarters and two other platoons were behind us: I assume they would have been 7 and 8 platoons. I am not sure what the time gap was between the deployment of each platoon. I recall that D Company of 1 Para was also somewhere in the area, though I am not sure where they were, or, which direction they came from, nor do I know what orders they had been given. They did not come down the Whiterock Road with us. The RMP were also in the area, though again I do not know anything further about their movements or actions. I do not know whether any units from the Royal Green Jackets were in the area that day or not.

My platoon's specific task was to secure the crossroads at the corner of the Whiterock Road and the Springfield

Road. As we walked down Whiterock Road I could hear some gunfire from the West in Turf Lodge. This made me more cautious and alert to our surroundings as we deployed down the road. We walked without stopping to within about 100 to 150m of the crossroads when we approached a lamppost emitting a pool of light. There had been no other working lights until this point. It was still dark at this point. We held off from doing anything and stopped for a moment just short of the light. The platoon went firm which involves deploying in a static defence formation with our flanks covered. At this point I wondered what to do and whether I should risk sending my soldiers through the light. I was concerned it may be an ambush. Whilst we were stopped we were fired upon from right hand side intersection ahead of us. I saw 2 or 3 muzzle flashes, which were in a static position; it was one weapon fired 2 or 3 times. I could tell the muzzle flashes were a hostile act as they were directed at us. It appeared to me as if the muzzle flashes came from the intersection of the Whiterock Road and Springfield Road, on the same corner of the intersection as St Aidan's school was. I have marked on a map the location from which I thought the gunman was located which I now produce as Exhibit M349/5. The fire was very loud so it was difficult to determine what types of weapon had been fired at us. There was a cacophony of noise. The whole situation felt like an ambush."

[115] In his statement the witness went on to say that he was unable to comment upon the location of where it is believed Mr Corr and Mr Lavery was shot. He then referred to coming under sniper fire which he thought was coming from St Aidan's

School and coming under fire when searching Turf Lodge flats. These incidents appear to be after the shooting of Mr Corr and Mr Lavery. He says in his statement at paragraph 43 that:

“I had no knowledge at any point that day that two casualties had been shot in the area of the crossroads of the Whiterock Road and the Springfield Road.”

[116] M349 was asked about a ciphered soldier’s account. There is a confusion about which soldier as HET referred to J whereas it was A. In any event, M349 dealt with his in the statement as follows:

“I have been shown an extract of notes taken from our interview said to be a Soldier A which I now produce as exhibit M349/11. I am not Soldier A. The note mentions that Soldier A witnessed Soldier F shoot a sniper. I do not have any memory of any soldier killing a sniper. The note refers to Soldier A being assigned to a ‘next task’; I had no ‘next task’ on the 11th of August 1971 after the incidents I have described in this statement. The note also explains that Soldier J called for a helicopter to evacuate a wounded soldier, I am not aware of any helicopter being in the area that morning. I would have heard it. I am unable to clarify anything further in that statement and do not know to whom it is attributable.”

M349 disputed an account given by another soldier that he had the heel of his shoe shot off or that he was involved in the arrest of Terence Lavery.

[117] The striking part of this account is that M349 as 9 Company Platoon Commander did not know anything of the casualties or who may have been involved in the incident.

M338

[118] M338 is deceased and so his written evidence was read in for consideration under Rule 17. This comprised a deposition to the original inquest on 11 October 1972. In it he said:

“I’m a corporal of the Royal Military Police attached to the Special Investigations Branch at Lisburn. On 21st July 1972, at Aldershot, I interviewed Soldier B regarding a shooting incident on the Whiterock road on the morning of 11th of August 1971. Soldier B made a written statement, which I now read out and produce Exhibit C2. I now hand the Coroner an envelope containing the name of Soldier B (Exhibit C3). I believe my interview with Soldier B on the 21st July 72 was the first time a statement was taken from him. He would have been expected to report this shooting immediately after this incident and account for the rounds fired. I would expect such a report was made in this case though no statement taken.”

Colonel Derek Wilford

[119] Colonel Derek Wilford, who was previously designated a cipher, was the Battalion Commander at the time of internment. He was potentially a very important witness, however he lives abroad and so was unable to attend to give evidence. His evidence was read into the record under Rule 17 on that basis. His solicitors, Devonshires, also pointed out that:

- (a) He was suffering from a particular identified condition at the time his written statement was made.
- (b) He wanted to have it made clear that no consideration was given to his medical condition when he made his written statement and that he was not well enough to make a reliable statement.
- (c) The condition has a particular effect on the body and the correspondence sets out the symptoms.
- (d) No doubt due to the effects of this condition Colonel Wilford's statement contains many inaccuracies. He has clearly forgotten facts and events he would have recollected were he not seriously unwell. He now lacks a reliable recollection.

[120] I admitted the statement on the basis that I would consider it in light of the above. The statement itself includes the following paragraphs:

"19. I have no recollection at all of casualties in Ballymurphy on the first day of internment or during the course of the following days. I found it actually rather surprising when I heard about how many people had been killed. I have no recollection at all of any of that sort of thing happening. If shots had been fired and civilians had been shot and either injured or killed there would have been an internal investigation. The army investigated everything. I have no recollection of any soldiers in my Battalion being interrogated or examined about anybody that they

had shot at or had killed. This comes as a complete surprise to me. This was in contrast to the events that were examined in the Saville Inquiry, where for example, on the night of those incidents my whole Battalion was questioned. Whenever there was an incident it was reported in detail and assessed.

20. As the Battalion Commander I would have been told had anything like this been going on. It would have been reported to me. None of that information came my way. In fact, had it come my way it would have been quite serious.”

[121] The statement is dated January 2019 and signed by Colonel Wilford who was given cipher M425. There is no contemporaneous statement from this witness. This statement is remarkable for the lack of any information the Battalion commander can give. I am asked to attribute all of that to his current condition but I am not convinced about that. Colonel Wilford signed the statement he received. I accept he may not be able to recall fine details but I find it hard to accept that he knew nothing of the two casualties or the investigation. The additional problem is that there are no contemporaneous records which Colonel Wilford can point to and so overall, for whatever reason, I have the highly unsatisfactory position that the Colonel of the battalion cannot assist me as regards the deaths of the two men. I will assess this gap as part of the overall picture.

M167

[122] M167's evidence was also admitted after medical excusal and alongside Terence Lavery's evidence. I have already said that I cannot actually say if he was Soldier B due to the unreliability of Terence Lavery's evidence. It is again

unfortunate that I could not hear from this witness but I have considered his statement and the exhibits dated 24 January 2019. In August 1971, M167 was a Private and a combat medic in 9 Platoon of C Coy 1 Para. I am struck by the comprehensive accounts given in the statement in January 2019 notwithstanding the medical difficulties which were put before the court. In his statement he refers to encountering three gunmen manning the barricade at the junction of Whiterock and Springfield Road. At paragraph 7.5 of his statement he says that:

“What I know now is that apparently the three gunmen manning the barricade were challenged (I don’t know by whom) but a short fire-fight ensued – I don’t know who fired first. I found myself exposed on some waste ground and I adopted the prone position on the ground looking to my front towards the barricade. I heard rounds passing very close to me and realised that if I knelt or stood up I was likely to be hit. I heard small-arms fire and high velocity sounds coming from the direction of the barricade. I also heard the distinctive sound of the SLR rounds which I knew to be the British Army standard issue at the time. Every weapon has its own distinct sound (known as a weapon signature). SLRs have a very different signature to weapons that were fired at us, i.e. Armalite, M1 Carbine, Garand etc.”

[123] Then at para 7.7 he said:

“As I approached the barricade which stretched across the junction with the Springfield Road I saw two or three people in civilian clothes on the ground. They were all moaning. I am pretty sure I saw two firearms near them which had been placed close together on the pavement.

One was an automatic pistol and the other I think was an M1 Carbine. However, I cannot be sure as I only had a fleeting glimpse of them. As the medic, I moved forward to treat the casualties.”

[124] He then described his account of the arrest of Terence Laverty. He said he was on duty at about 0445 with M349 when two youths were throwing stones and bottles as they advanced on the barricade. He also mentioned M351 as being there. He then stated that he made a statement which said that Mr Laverty and his colleague were engaged in riotous behaviour. M167 rejected the assertion that he retracted his statement and so he disputed Mr Kinnon’s account. He said he was not informed of the appeal hearing, having given evidence at the original trial.

[125] He also disputes the document made by HET that he said the person who shot Mr Corr and Mr Laverty was M350. Other than that, M167 did not witness the shooting of Mr Corr or Mr Laverty but he came on them afterwards. There is PSNI documentation concerning a complaint of perjury made by M167 against the CCRC and Public Prosecution Service; PSNI review of that complaint questions the reliability of M167 although M167 has not commented on this himself. This material is highly controversial and as such, overall, I cannot rely on it as reliable or determinative of the issues as it has not been tested or questioned.

IX. CONCLUSIONS FROM THE EVIDENCE

[126] In reaching my conclusions I have considered all of the above evidence and the documents I have received in this case. My task is governed by the law as I have explained in the introductory part of my findings. I must determine who the deceased were, how and when and where the deceased came by their deaths and the particulars for the time being required by the Births and Deaths Registration (NI) Order 1976 to be registered concerning the deaths. In accordance with the obligation

under Article 2 of the ECHR the inquest must consider whether the use of lethal force was justified in determining how the deceased met their deaths. This is a fact finding exercise, the outcome of which depends on the evidence. I am not determining any criminal or civil liability, rather I am tasked with trying to establish facts about these deaths, upon the evidence before me, on the balance of probabilities and to allay rumour and suspicion.

[127] I recognise that there will inevitably be difficulties in a case such as this at nearly 50 years remove in establishing specific details of matters such as place, time and location. However, this difficulty does not mean that some fact finding is impossible. The court is obligated to try to reach conclusions albeit they may be of a more general nature. It is also open to me to remain undecided on certain aspects of the evidence upon a full analysis. If I am uncertain I will explain why.

[128] Having considered the entire evidential picture and bearing in mind the difficulties inherent in establishing facts at this remove of time, applying the balance of probabilities to the factual issues I have to decide what conclusions I can reach. I do so, avoiding speculation as to why things happened on this day in August 1971 in the way that they did.

[129] I start by examining the issue of who shot the deceased. The fact that a military issue bullet (i.e. a bullet consistent with that fired from an L1A1 SLR used by the British Army in Northern Ireland in 1971) was recovered from Mr Laverty's body is strong evidence. Mr Corr was shot in close proximity and as part of the same incident. That is also strong objective evidence. On the basis of the evidence I find on the balance of probabilities that both deceased were shot by the British Army. I do not accept that this type of bullet came from any other source at the relevant time – the evidence does not support that theory. In addition, the contemporaneous logs point towards this outcome as does the military evidence. This was most clearly expressed by M166 who said he was given an order to “proceed down Whiterock

Road towards Springfield Road to attend to two male persons, who it was believed had been shot by elements of C Coy 1 Para.”

[130] Having listened carefully to the evidence, particularly the military evidence, there was no suggestion made that these men were shot by anyone else. I reject the point made by the MoD in closing submissions that they may have been shot by other gunmen as this is speculative in the extreme and does not accord with any evidence I have heard. In addition, this submission does not add up upon consideration of the locations of the men and the ballistics and pathology evidence, which I will come to in due course.

[131] In terms of the timing of the deaths, there is broad agreement, which is confirmed by the contemporaneous records, that the two men were shot sometime between 4.15 and 4.52am, most likely in the middle of that range of time.

[132] I have considered a largely consensual body of evidence from civilians that people were on the streets in the early hours that morning. That evidence is credible and correlates with the heightened tensions around interment and the primeval instinct of people to both try to see what was happening and try to protect their community. I was convinced by the evidence of a number of witnesses that a warning was given of activity by way of bin lids. Joseph Marley's evidence was particularly evocative on that. A number of sources namely Mr Marley and the statements of Joseph Corr Jnr, Gerard McConville and Oliver Pollock, referred to people being out because of Protestants apparently coming in. Against that the account given contemporaneously by Mr Corr referred to the soldiers coming into the area. I pay particular regard to that assertion as it was contained in statement form at the time. Having analysed this entire body of evidence I think there is probably truth in both accounts. In other words, mention was made of Protestants coming and also soldiers coming. In my view the two are not mutually exclusive given the time. It was also the early hours of the morning when tensions were high

and so I think it is perfectly viable that a number of stories were going around as to who was coming into the area.

[133] In relation to the movements of the two deceased, I find the following facts. I prefer Mrs Corr's account of how Mr Corr ended up on the streets shortly after 4.00am. However, I also accept the fact that Joseph Corr Jnr went out with him and was with him prior to separation of the two. I do not consider there is enough clear evidence about the young lad being shot or about Mr Corr and his son being at 201 Whiterock Road.

[134] It is difficult to pinpoint with precision Mr Laverty's movements. I cannot rely on Mr Terence Laverty's account. I simply cannot say whether the deceased was at his sister's or came out of his own house to come onto the street with others. However it seems likely that bin lids having sounded, and the rumours having gone around that Protestants/soldiers were coming into the area, he went out onto the streets. I cannot be any more certain on this issue.

[135] After the people came onto the streets it is clear to me, having heard the evidence of witnesses, that they walked or progressed up the Whiterock Road from further down. This is a natural conclusion given that the people thought that there was an invasion from the direction of the Mountain Loney. I think it is also natural that people would come up the raised footpath outside the odd numbers on Whiterock Road as Joseph Marley described. It is impossible to say how many people there were or whether there was any organisation to the group. There is also not enough evidence and no contemporaneous account of a riot on the streets. I think that if there was a riot it would have been recorded. No military witness gave evidence to this effect.

[136] I heard evidence about barricades of varying sizes and locations. It is impossible to be definitive about this issue save for the presence of a barricade which is recorded at the bottom of the Whiterock Road with the junction of the Springfield

Road. This barricade was clearly substantial and contained a mine as the logs record.

[137] There was a large measure of consensus in the pathology evidence. Clearly both men suffered catastrophic injuries. In the case of Mr Laverty he must have died fairly quickly after being shot and I do not consider it is likely he moved around himself. He may however have been moved by soldiers. Mr Corr did not die immediately but he suffered significant injuries which clearly meant he could not move very far himself. He may have moved a short distance, but on the evidence I think he died close to where he was shot.

[138] It is difficult to pinpoint exactly where the deceased were shot without eye witness accounts. What I have to consider are differing accounts of the position of the deceased in the aftermath of the shooting. Witnesses have given varying accounts within the Whiterock Road area and, as I have said, different places have been marked on the map. This is all perfectly understandable with the passage of time. The MoD final written submission states that:

“Despite these uncertainties it is submitted that on the balance of probabilities, the available evidence supports the conclusion that both Mr Corr and Mr Laverty were shot when they were on or near the pavement of Whiterock Road with others.”

[139] I place the location as somewhere between Nos. 205-217 Whiterock Road on the raised pavement. I determine that Mr Laverty was found higher up the Whiterock Road than Mr Corr who was behind him (as you look down from the Mountain Loney). This assessment tallies with the evidence of the medical orderly M166 who actually treated the men and identified them from photographs. M546 saw a wounded man up on a raised pavement on Whiterock Road being treated by a medic belonging to C Company. M432 also recalled the injured man being treated

on a pavement up a grass bank. I was less convinced by the location given by M402 which I think is probably too far down the road. M380, who spoke to M166 and arranged treatment, also saw the injured men in the area I have described.

[140] I was impressed by the evidence of the Doyle brothers who, though young children at the time, clearly remembered a traumatic event. I do not expect them to be accurate about exact details but on the balance of probabilities I accept the account that there was an injured man in the vicinity of their property, who spoke to one brother and who was reached by army personnel in that general area. I consider it likely that this was Mr Corr.

[141] The evidence of medical treatment at the scene given by M166 and M380, in particular, leads me to conclude that nothing could be done for Mr Lavery. As regards Mr Corr I am satisfied that the medical assistance at the scene was all that could be offered in the circumstances. M166 applied the shell dressing; that was reasonable within the confines of his role. Then M380 came and applied a further dressing and administered morphine. I accept the military evidence that it was difficult to get ambulance assistance during this incident due to barricades in the area. The logs show that medical attention was sought. Overall, I have no reason to believe that the medical treatment was substandard in these desperate conditions.

[142] It is clear to me that both men were not in a standing position when shot. The pathology and ballistic reports are agreed on this. The expert evidence tells me that the men were both clearly shot in the back when either crouching, crawling or prone.

[143] I find on the balance of probabilities each man was killed as a result of one shot which caused catastrophic injuries upon entry and exit.

[144] There is no evidence that guns were found on or near either of these two men. The only evidence of any nature in this regard is that from M167 which I do

not rely on. That evidence also places the men at a position much further down the road at a barricade near the junction of Springfield Road. In my view it is highly significant that the first responders, particularly the military witnesses offering medical help, M166 and M380, saw no evidence of weapons around these men. That is compelling evidence given that this incident took place within such a short space of time relative to their attendance at the scene.

[145] I found the evidence of M432 particularly striking as regards the demeanour of the deceased men. He said: “they did not look like terrorists”, “there were no weapons.” He was also struck by their location, which was in open view.

[146] As I have found that both deceased were shot and killed by the Army it is for the State through the inquest process to justify the use of lethal force in the circumstances of this case. In this regard the evidence relied upon comes from Soldier B.

[147] In the written closing submissions of the MoD, reference is made to the context of what was happening in 1971. I have already referred to this in my introduction. Of course it is right to say that this was a brutal and bloody time. ‘Lost Lives’ records that 180 people were killed in 1971: 94 civilians, 44 soldiers, 23 Republican paramilitaries and 3 Loyalist paramilitaries. Also, I bear in mind that as a result of the eruption of violence in 1969 the British Army was operationally deployed in Northern Ireland in aid of civil power, the Government of Northern Ireland, but violence continued on the streets. By 11 August 1971, 300 internment arrests had occurred and there was local unrest on the streets including barricades. I do appreciate this context very well but as the MoD submission itself says at 1.12:

“It must be emphasised that this section is not intended to and should not be read as suggesting contextual justification for the deaths under investigation in this

inquest or indeed any deaths. Rather, it is to illustrate the true extent of the civil emergency faced by the Government of Northern Ireland, and the security forces deployed on the ground.”

There was also disruption and shooting in the general area. That much is clear. However, that general position is not enough of itself to explain the death of civilians on the streets. Each case must be examined on its own facts.

[148] Soldier B is unidentifiable. There is no indication that he is deceased or ill. I simply do not know who he is. He has not come forward voluntarily to give evidence about his honest and genuine belief regarding the use of force in this case. That is a considerable obstacle in itself for the State in terms of providing justification for these deaths.

[149] I can only rely upon a statement of Soldier B, in the absence of oral evidence and questioning. This is a statement made 11 months after events. I have considered it carefully and having done so I conclude on the balance of probabilities that it cannot possibly provide adequate justification for the use of lethal force against Mr Corr and Mr Lavery for the following reasons. There is an initial problem in that the statement appears to suggest B was acting in isolation. He does not refer to or identify any other soldiers. M356 who gave evidence, totally disputed this account and when he read B’s statement he said he was “amazed.” B’s account also conflicts with that of M166 who was called to attend to the two men and there is no symmetry between the two.

[150] Most fundamentally, the core of B’s claim does not square at all with the evidence I have heard in this inquest including, and in particular, the expert ballistic and pathology evidence. B states that three or four males were crawling up the Whiterock Road firing a machine gun and a pistol. He says they stood up and began to retreat and when he stepped out of cover, the machine gun man raised the gun so

B fired. This cannot account for the deaths of Mr Corr and Mr Lavery who were on the evidence shot in the back whilst crawling, crouching or prone. They were clearly not facing the shooter. Therefore, B's evidence does not justify this use of lethal force towards the deceased. Put simply, on the basis of the written statements, Mr Corr and Mr Lavery cannot have been the gunmen he was referring to.

[151] There is no other justification offered about these deaths and the contemporaneous records do not assist me. Also, the evidence of the battalion Commander Colonel Wilford does not assist me. There was some activity and shooting in this area from gunmen but there is no consistent evidence that it came from where Mr Corr and Mr Lavery were shot. That is unlike the clear evidence that later in the morning there was a sniper at St Aidan's School or the specific evidence that there was a mine in the barricade – all of that evidence is recorded and verifiable.

[152] I am also satisfied that the investigation into these deaths was inadequate. Mr Samways' evidence was very helpful in explaining the correct procedures which operated at the time. Clearly these were not followed. A variety of military witnesses told me that shootings would have to be reported up the chain but there is no evidence of this. B's statement was also taken 11 months after the event.

[153] Within his book, and in his evidence, General Jackson agreed that there was a protocol about investigating military deaths. He said:

“It was an absolute rule in Northern Ireland that military police took statements from any soldiers who had fired live rounds. Every soldier was allocated a certain number of live rounds and had to account for them to his Platoon Sergeant. The rounds have batch numbers so they can be identified after firing. As adjutant, I helped in the administration of the statement-taking

exercise making a list of those who need to be interviewed.”

[154] It is my view that the RMP did not follow protocol and investigate this case properly at the time with the result that valuable contemporaneous evidence was lost and no military disciplinary action could be taken. I cannot say that the plan to remove barricades was unreasonable. That was confirmed by the O Group meeting and the very helpful evidence of M2294. So, I decline to make any adverse finding as to planning. In my view this event simply evolved as the operation took place. As far as I can discern it did not have a pre-planned element regarding the use of lethal force against civilians.

[155] I accept the evidence of the Doyle brothers as to their arrest and maltreatment. This evidence was corroborated by some military witnesses. General Jackson also accepted that such treatment of prisoners would be inappropriate. To my mind the awards of compensation corroborate the fact that this happened. On the basis of the evidence I can say this in the case of the two Doyle brothers, but I do not make any wider assessment of this issue which is a background matter in any event.

[156] It follows from the above, that sadly some questions remain unanswered about who shot Mr Corr and Mr Lavery. The most I can say is that the shots came from one or more soldiers in C Coy 1 Para, probably 9 or 8 Platoon. It is a great pity that I have not heard evidence from the relevant military personnel as to their actions on that day as that would have given me the opportunity to assess their explanation for opening fire.

[157] I found the evidence of M382 to be convincing. He was not the doctor who attended to the casualties and yet his name was recorded on official accounts. I accept his reasoning as to why this was wrong and I thank this witness for his thoughtful evidence. In my view this evidence also points to a failed and inadequate

investigation in this case. I do not go so far as to say there was a conspiracy but this evidence highlights a serious failing.

[158] The logs that I have examined give only a partial account because the crucial battalion logs are missing. The brigade logs do establish that there was shooting at the army on the day in question. However, it simply cannot be said on the basis of these records that this is anything more than a general account. There is no specific location identified and evidence about the extent of the shooting and where it was coming from is variable. Therefore, these records do not provide adequate justification for the particular deaths of Mr Corr and Mr Lavery.

[159] On the basis of the evidence M167 cannot be identified as Soldier B.

[160] There is no evidence of any paramilitary trappings associated with Mr Corr and Mr Lavery. I obtained the death notices which denote no such connotations. Therefore, it was wrong to describe these two men as gunmen and that rumour should be dispelled.

X. VERDICTS

[161] The inquest verdicts are therefore as follows:

John Lavery

- (a) The deceased was John Lavery, male of 17 Whiterock Parade, Belfast.
- (b) Mr Lavery was born on 3 April 1951.
- (c) Mr Lavery was a single man who was a bin man/road sweeper.

- (d) Mr Laverty died on 11 August 1971 on the Whiterock Road, Belfast, from injuries sustained by gunshot.
- (e) Mr Laverty's death was caused by internal haemorrhage due to laceration of the bladder, right kidney, spleen and left lung due to gunshot wounds sustained in the trunk of his body.
- (f) The injuries leading to the death of Mr Laverty were caused by 7.62 rounds fired from a high velocity rifle by a soldier or soldiers in C Coy of the 1st Battalion of the Parachute Regiment of the British Army.
- (g) Mr Laverty was at a point on an elevated footpath between 205-217 Whiterock Road and was shot from a position higher up the Whiterock Road.
- (h) People including the deceased had gathered on the streets having heard bin lids and rumours of an incursion by Protestants from the nearby Springmartin Estate/the Army, coming down the Mountain Loney.
- (i) The shooting took place between 4.15 and 4.52am.
- (j) There is no evidence that the deceased was armed or acting in a manner that could be perceived as posing a threat.
- (k) No valid justification has been provided for soldiers opening fire.
- (l) The circumstances of this death were not adequately investigated.
- (m) There is a breach of Article 2 as the shooting occurred without minimisation of risk.

- (a) The deceased was Joseph Corr, male of 24 Divismore Crescent, Belfast.
- (b) Mr Corr was born on 19 June 1928.
- (c) Mr Corr was a married man and a machinist by occupation.
- (d) Mr Corr died on 27 August 1971 at the Royal Victoria Hospital, Belfast, from injuries sustained by gunshot which occurred at Whiterock Road, Belfast, on 11 August 1971.
- (e) Mr Corr's death was caused by acute bronchopneumonia and peritonitis due to gunshot wounds sustained to the abdomen and chest.
- (f) The injuries leading to the death of Mr Corr were caused by 7.62 rounds fired from a high velocity rifle by a soldier or soldiers in C Coy of the 1st Battalion of the Parachute Regiment of the British Army.
- (g) Mr Corr was at a point on an elevated footpath between 205-217 Whiterock Road and was shot from a position higher up the Whiterock Road.
- (h) People including the deceased had gathered on the streets having heard bin lids and rumours of an incursion by Protestants from the nearby Springmartin Estate/the Army, coming down the Mountain Loney.
- (i) The shooting took place between 4.15 and 4.52am.
- (j) There is no evidence that the deceased was armed or acting in a manner that could be perceived as posing a threat.
- (k) No valid justification has been provided for soldiers opening fire.
- (l) The circumstances of this death were not adequately investigated.

(m) There is a breach of Article 2 as the shooting occurred without minimisation of risk.

Signed: Mrs Justice Keegan
Coroner

Dated: 11 May 2021

ANNEX 4

INCIDENT 4: THE DEATHS OF JOHN LAVERTY AND JOSEPH CORR

- 4.1 TBM Consultants Plan 3/Ordnance Survey Map 1972**
- 4.2 Exhibit B4/02 (map marked by Joseph Marley)**
- 4.3 Photographs attached to Joseph Marley's statement**
- 4.4 Exhibit B4/03 (map marked by M432)**
- 4.5 Exhibit B4/05 (map marked by M380)**
- 4.6 Exhibit B4/06 (map marked by M368)**
- 4.7 Exhibit B4/07 (map marked by M344)**
- 4.8 Exhibit B4/08 (measurements marked on Plan 5 by Brian Murphy)**
- 4.9 Exhibit B4/11 (map marked by M433)**

4.1 TBM Consultants Plan 3/Ordnance Survey Map 1972

4.2 Exhibit B4/02 (map marked by Joseph Marley)



thm consultants	
Site:	Lawrence + Corp.
Block:	CS - 1574
Map:	1-1992
Scale:	ASBLS (from 1/2"=1')
By:	
Project No.:	1034

4.3 Photographs attached to Joseph Marley's statement

Received 13/04/19 Pg 1 of 4
Rogon

JM/02 - SIGNED: [REDACTED]

DATED: 13 04 19

Photo A - given by Joseph Marley



Photo B - given by Joseph Marley

Received 15/04/19 Pg 2 of 4
A Logan

JM/02 - SIGNED



DATED: 13/4/19

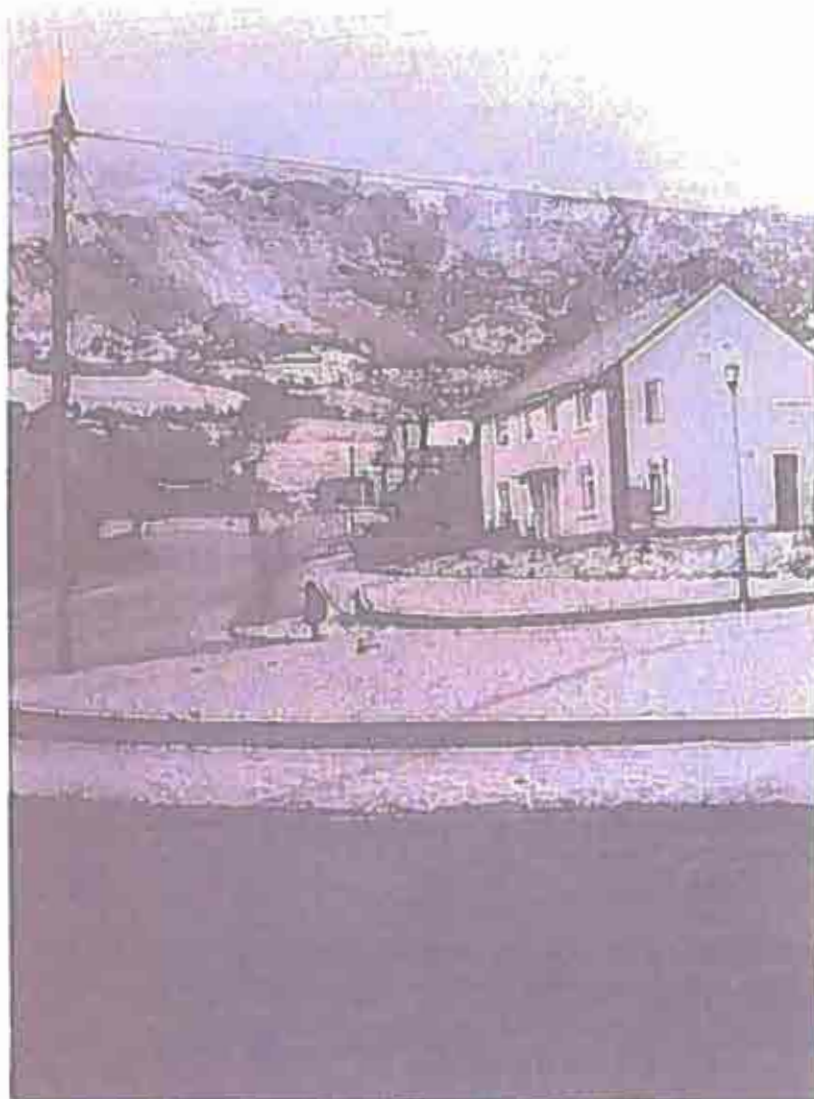


PHOTO B

Received 15/04/19 pg 3 of 4
A. Logan

JM/02 - SIGNED [REDACTED]

DATED: 13.4.19

Photo C - given by Joseph Marley

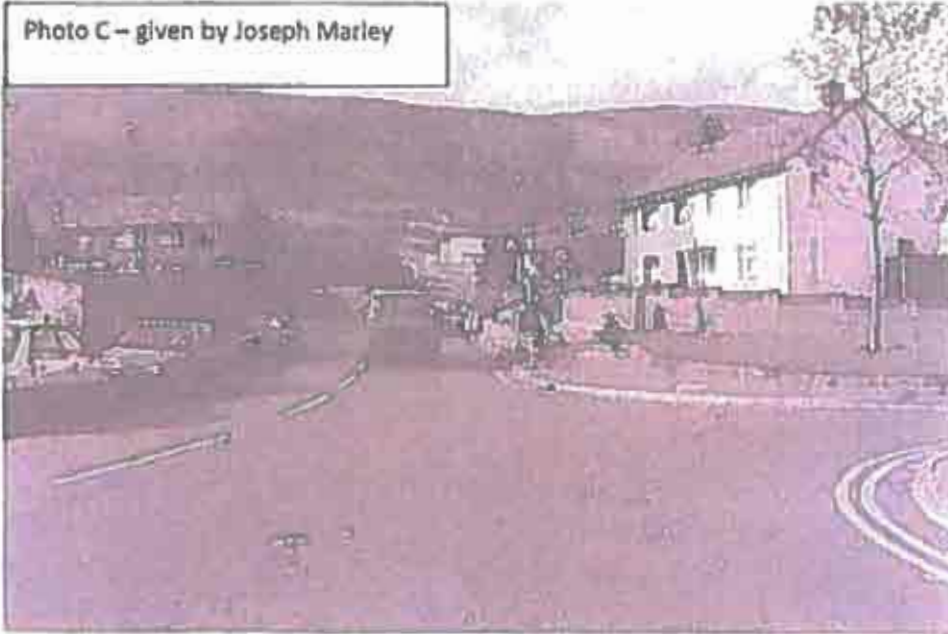


Photo D - given by Joseph Marley



Received 15/04/19 pg 4 of 4
A. Logan

JM/02 - SIGNED:



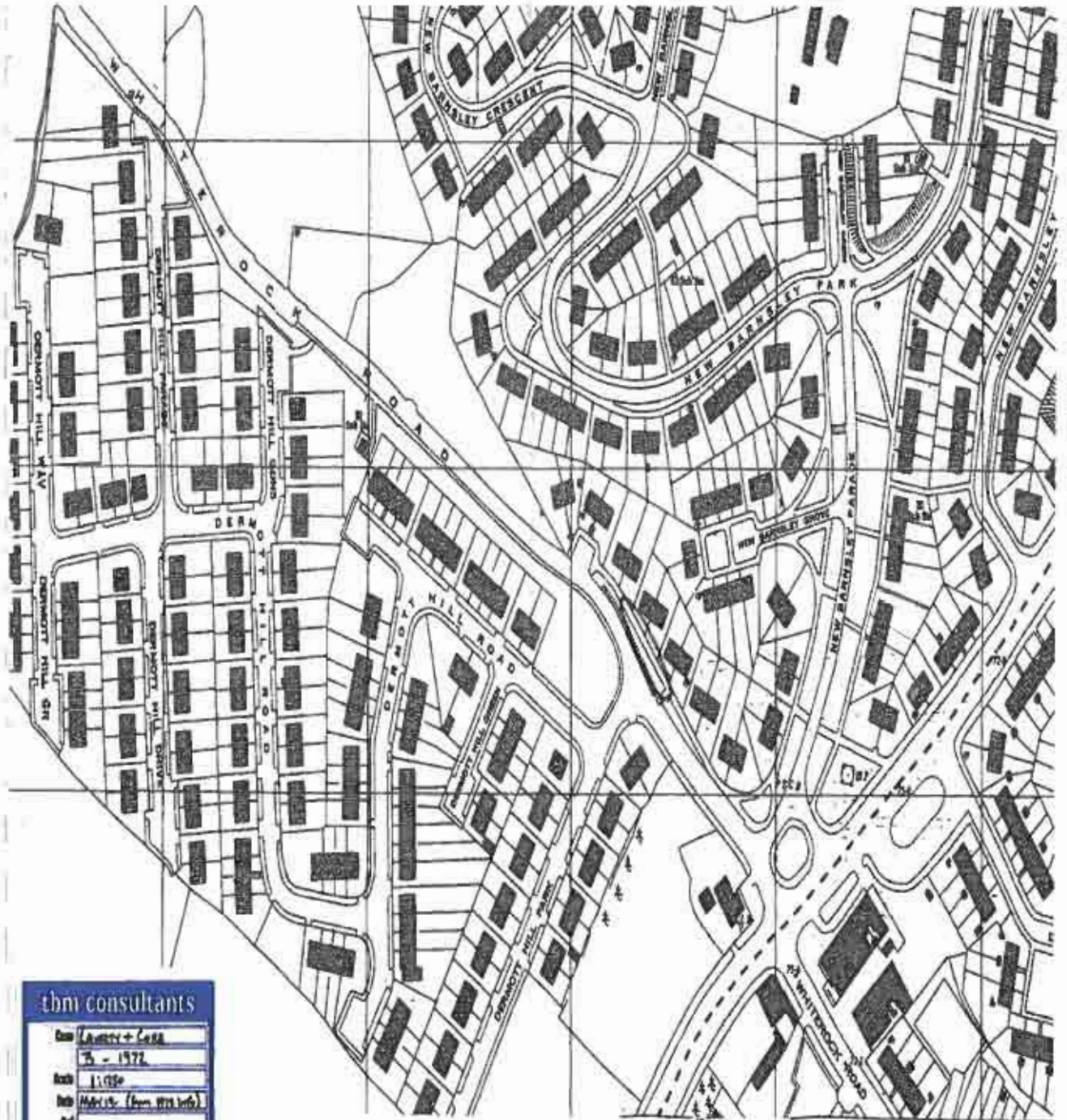
DATED: 13/4/19

Photo E - given by Joseph Marley



4.4 Exhibit B4/03 (map marked by M432)

4.5 Exhibit B4/05 (map marked by M380)

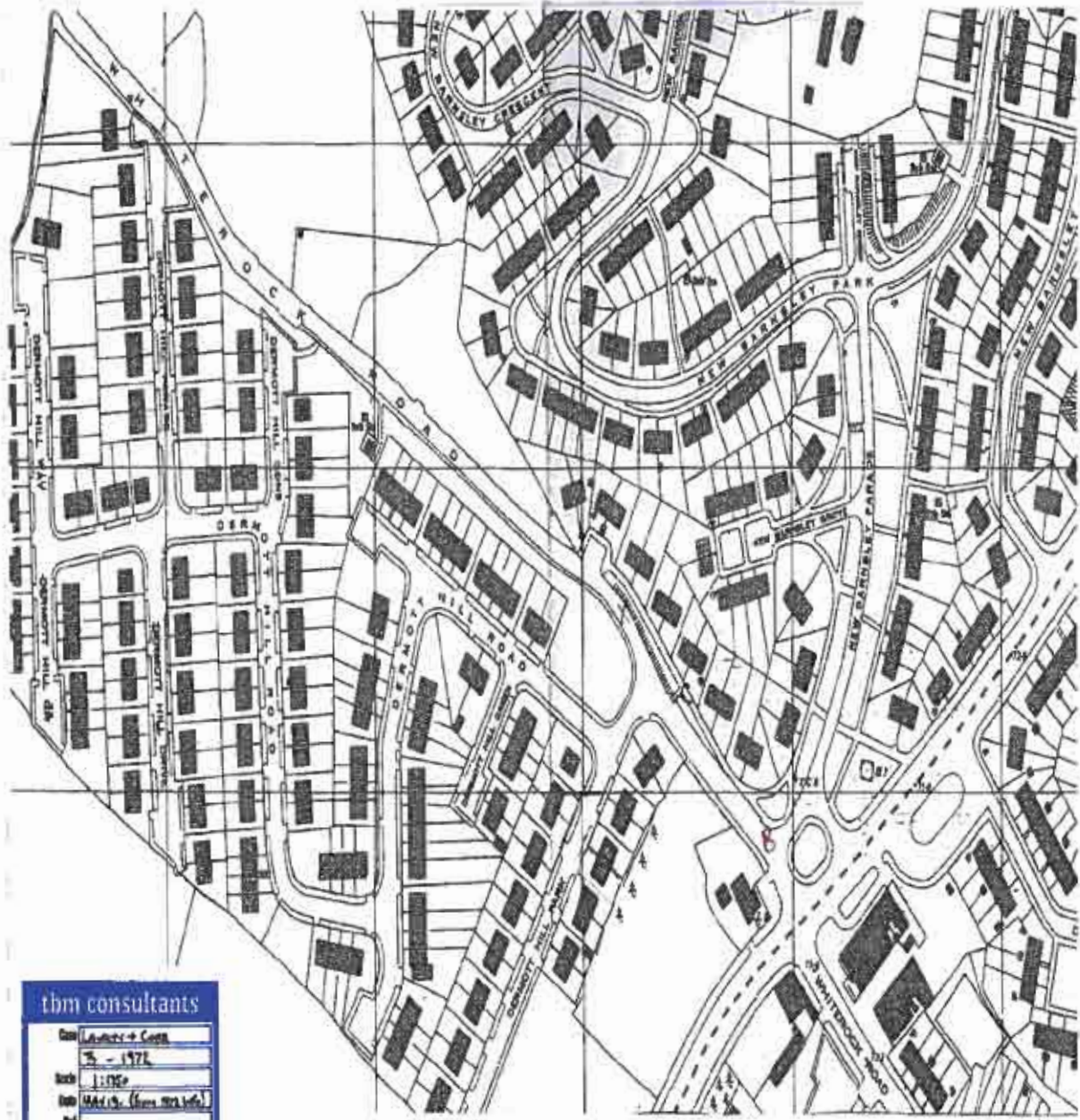


thm consultants	
Date	Lauree + Lisa
	5 - 1972
Scale	1:1000
Info	Map 10 (from 1972 info)
Ref	
Reviewed by	Q2ul

EXHIBIT 84/05

4.6 Exhibit B4/06 (map marked by M368)

4.7 Exhibit B4/07 (map marked by M344)



tbm consultants

Date	1976 - 1978
Scale	1:1000
Date	MAR 1978 (from 1976 info)
By	
Checked by	G. Smith

Sheet 21/4
21

**4.8 Exhibit B4/08 (measurements marked on Plan
5 by Brian Murphy)**

4.9 Exhibit B4/11 (map marked by M433)



Neutral Citation No: [2021] NICoroner 6

Ref: KEE11474

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 11/05/2021

IN THE MATTER OF THE CORONERS ACT (NORTHERN IRELAND) 1959

**IN THE MATTER OF A SERIES OF DEATHS THAT OCCURRED IN
AUGUST 1971 AT BALLYMURPHY, WEST BELFAST**

**INCIDENT 3
THE DEATH OF MR EDWARD DOHERTY**

CORE ABBREVIATIONS USED IN THIS INQUEST:

NOK:	Next of Kin
MoD:	Ministry of Defence
RUC:	Royal Ulster Constabulary
CSNI:	Coroners Service for Northern Ireland
HET:	Historical Enquiries Team
RSR:	Review Summary Report
RMP:	Royal Military Police
APC/PIG:	Humber Armoured Personnel Carrier
SMG:	Submachine Gun
GAA:	Gaelic Athletic Association
RVH:	Royal Victoria Hospital

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VI. Military Evidence	[35]-[57]
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X. Conclusions from the Evidence	[70]-[102]
XI. Verdict	[103]

I. INTRODUCTION

[1] This is an account of the evidence and my conclusions and verdict. I have considered all of the evidence heard between 28 November 2018 and 10 December 2018 and additional evidence heard in September 2019. I have also considered all of the papers and the written submissions of counsel. This text does not recount each and every aspect of the voluminous material I have considered and so it should not be assumed that where some detail is not specifically mentioned I have not considered it. I have considered the totality of the evidence in reaching my findings.

[2] In the introductory chapter I set out the law governing inquests in Northern Ireland which I have applied. With the agreement of all parties I have heard this inquest as a judge sitting as a coroner without a jury. I have kept in mind the investigative obligation imposed by Article 2 of the European Convention on Human Rights. I have applied the balance of probabilities as the standard of proof. As I state in the introductory section, the standard of proof is one thing but the state of cogency of the evidence is another as this case relates to events 50 years ago. The court is mindful that memory is affected by the passage of time and so accounts must be examined carefully before findings can be made. In accordance with my obligations in law I have, upon assessing all of the evidence I have seen and heard, tried to reach a verdict on the core issues. Where I have not been able to reach a conclusion I have explained why.

[3] Mr Edward Doherty was 30 at the date of his death. He was a father of four. He was a builder's labourer and he lived on Iveagh Street.

[4] Edward Doherty died on 10 August 1971 on the Whiterock Road. He had been on his way home from visiting family in Norglen Parade when his way was blocked by a barricade. Mr Doherty was shot by a soldier who was driving a military vehicle at this barrier. The shooting took place around 5pm and he died

shortly afterwards. This death occurred as part of a series of events which took place in Ballymurphy, between 9 and 11 August 1971. The death of Mr Doherty on 10 August 1971, is a single incident, the third in a series of five I am examining.

[5] In 1972 an inquest into this death was conducted by the coroner Mr Elliott. That recorded an open verdict. In 2011 the Attorney General of Northern Ireland ordered a fresh inquest.

[6] By way of correspondence of 24 May 2011 the Attorney General provided reasons for doing so as follows:

“In particular I have considered the statement of Soldier B which was submitted to the inquest on 4th May 1972. In this statement soldier B described firing one aimed shot at a man whom he said was throwing a petrol bomb, before being struck on the right side of his head and knocked unconscious. Soldier B later identified this man as Edward Doherty. I have also considered the statement made by the same soldier to the Royal Military Police on 12 August 1971, in which he describes the incident in which he was struck on the head thus:

‘I had my weapon in my left hand being a left handed shot, and, holding the door open with my right hand, I brought my weapon to the aim at the man with the rifle. As I did so, I received a blow to the right side of my head with what I do not know, but my right eye was injured. I was partially blinded but I fired at the man with the rifle. I must have inadvertently engaged the change lever on

automatic as I emptied the magazine firing towards the rifleman.’

It appears that the statement made by soldier B to the Royal Military Police was not available to the original inquest and the coroner’s jury would it appears have been unaware that the soldier in question had admitted firing a total of 30 bullets in the vicinity of the barricade on the Whiterock Road instead of only one aimed shot as appears from the statement which was submitted to the inquest.

This issue could not have been, and indeed was not, explored at the original inquest.”

[7] I heard oral evidence from civilian witnesses and military witnesses, including M3 the soldier in question. I have also considered written statements and all of the papers filed in this matter. I have considered maps of the area, contemporaneous media reporting and newspaper death notices. I have been provided with helpful written submissions by the counsel representing the next of kin and the Ministry of Defence (“MoD”). My verdict is in narrative form, bearing in mind the obligations upon me which I have set out in the introductory section of the findings. I will summarise the evidence in the subsequent paragraphs.

[8] The how, when and where of this death is not contentious. It is also not contentious that the deceased was shot by a soldier serving in the Royal Engineers who was driving a vehicle in the area on the day in question. The main question in this inquest is whether the use of force can be justified. The next of kin say it cannot, whereas the MoD assert that the shooting was justified because of unlawful activity at the barricade.

II. SETTING THE SCENE

[9] To obtain a sense of the area in 1971 I have utilised maps and photographs which I refer to here to assist the reader. Particular reference was placed upon Plan B drawn from an Ordnance Survey map of the area in 1965. Brian Murphy is Consultant Engineer. He provided a report to the court and some plans of the area in which Mr Doherty was shot. He also took some photographs of the area which were utilised. Prior to giving evidence there was some dispute about the exact locus of the incident. This was resolved by all parties and so Mr Murphy concentrated on location 1. He also gave evidence about the style of the tractor being driven by the soldier M3, namely an Allis-Chalmers military issue vehicle.

[10] I reproduce the map which shows the area of the Whiterock Road I have been dealing with (**Annex 3.1**). Location 1 is marked. I also reproduce two photographs of the Allis-Chalmers tractor (**Annex 3.2**). In addition, I reproduce some photographs of the Whiterock Road in the present day taken by Mr Murphy. These show the camber of the road and also some houses where eye witnesses were located. Photograph 21 (**Annex 3.3**) - shows 51 Whiterock Road (the home of Martin McLaughlin who witnessed from an upstairs bedroom window). Also photograph 29 (**Annex 3.4**) shows 7 Whiterock Drive (where Mr Doherty was taken after he had been shot). Photographs 31-46 (**Annex 3.5**) detail the view from 51 Whiterock Road, where Mr McLaughlin was. This shows a view overlooking the road and the cemetery.

[11] I visited the scene myself and saw the locus of this event on the Whiterock Road. Driving up the road the cemetery entrance is visible on the left, rows of houses on the right, Brittons Parade.

[12] On the day in question, Mr Doherty was on his way home from visiting family when he came across the barricade. The circumstances of how he got shot are disputed but he did get shot by a bullet which was fired by a soldier from a tractor

who was trying to remove the barricade. That much is uncontroversial. The core questions are where was Mr Doherty when he was shot, was he the petrol bomber, and was the soldier justified in opening fire?

[13] The context of the day is important. This incident came after the deaths on 9 August 1971 in Ballymurphy following Operation Demetrius and the introduction of internment in Northern Ireland. This was a fraught time in West Belfast and in other parts of Northern Ireland. The Historical Enquiries Team (“HET”) Review Summary Report (“RSR”) refers to the setting as follows:

“When the army was sent to NI in 1969 to support the RUC, it was welcomed as a neutral force by most sections of the community. By the time of Mr Doherty’s death in August 1971 though, a substantial section of the nationalist community had come to regard the army as an instrument of state oppression. The Parachute Regiment in particular had a poor reputation in Belfast; many considered them to be violent, arrogant and insensitive. Only 3 days before Mr D was killed, a member of the Parachute Regiment shot dead Henry Thornton who had been driving his work van along Springfield Road when it backfired. His passenger Arthur Murphy was taken to the nearby RUC Station where he was allegedly assaulted. That night there was severe rioting against the army in the Springfield area.

Young soldiers generally viewed tours of duty in NI with trepidation. Between February and August of 1971, 14 of them had been killed. On one hand the army regarded the nationalist communities as the areas from which threats to their safety were most likely to emerge and on

the other the nationalist community viewed the soldiers as agents of the state who were determined to repress them, almost at any cost. The situation was extremely tense and there was little sign of it improving.

The RUC were overwhelmed by the volume of serious incidents and the dire security situation. Normal policing functions all but ceased and many regarded the RUC to be an unprofessional, sectarian and unionist police force that had no genuine desire to investigate allegations of wrongdoing by members of the security forces. Instead of playing only a supporting role to the RUC, the army soon assumed primary responsibility for safety and security throughout NI. In 1970 the head of the army and the RUC Chief Constable reached an agreement that army investigators would interview soldiers who were alleged to have been involved in serious incidents. More will be said of the agreement later in this report, but a consequence of it was that it negated any possibility of an independent and effective investigation.

The day before Mr Doherty died internment was implemented under the Special Powers Act, which allowed the police and army to indefinitely detain without trial those suspected of terrorism. Hundreds of Catholics were arrested in dawn raids. Between August 7 and 11 23 people died as a result of incidents that took place in West Belfast and thousands of people were burned out of their homes. Hijacked lorries, buses and cars were used to construct barricades creating effective no-go areas; visible symbols of success to those who

espoused a republican agenda, and an embarrassing challenge to the authority of the State. It was near to one such barricade that Eddie was shot and killed.”

III. FAMILY TESTIMONIALS

[14] Before hearing the formal evidence, Mr Doherty’s family provided some personal testimonials. His sister and son were able to do this and they made the following observations. The family told me that he had been in an awful state after hearing of the deaths in Ballymurphy. His family were devastated by this death and stressed the ripple effect of this on a number of members and the acute pain caused by the fact that Mr Doherty’s death occurred on his own road. They said that this was an injustice and they wanted to fight for the truth. They referred to the fact that Mr Doherty was a 30-year-old married man and father of four when he died. I have heard a testimonial from his family about the great loss occasioned by his death. I have also heard that Mr Doherty was a working man, a builder’s labourer. His father was formerly a member of the Territorial Army (“TA”) and had been a member of the Royal Engineers before that. In addition I received a statement from Kathleen McCarry, his sister, and that refers to the fact that Mr Doherty joined the TA himself. When he came home he suffered from depression but he got on with life. He worked and enjoyed fishing and clay pigeon shooting as pastimes. He was described as a humble man, a devoted husband and a threat to no one.

IV. ENGINEERING EVIDENCE

[15] In evidence, Mr Murphy explained that location 1 where the incident occurred remains largely the same today as in 1971. He described this as an area of wide urban road (the Whiterock Road) bounded by a cemetery wall to the left (looking up the road) and a Gaelic Athletic Association pitch and some waste ground to the right now a children’s play park. The waste ground was described as rough and undulating. Mr Murphy said that the locus was country wards up the

inclining Whiterock Road from in or around the barricade up as far as 51 Whiterock Road. The exact situation of the barricade was impossible to mark, but broadly it was agreed by a process of asking witnesses to indicate it on Mr Murphy's plan B that this was on relatively flat terrain above the brow of the initial steep hill on the Whiterock Road leading towards Brittons Parade. There is a height difference of two feet over a distance of 38m (124.6 ft) from the centre of the road at Brittons Parade to the centre of the road outside 57 Whiterock Road. The road is therefore two feet higher in line with No. 57.

[16] Mr Murphy provided some information from his own researches about the Allis-Chalmers tractor. Referring to photographs of this type of vehicle, he said that it was not fitted with protection or with grills. He referred to the soldier's description that there was only one door on the left hand side as according with some photos but another textbook showed access from both sides. Mr Murphy accepted the soldier's estimate of the vehicle being about 10 feet off the ground as realistic, which meant the soldier's eye line would be six inches less than that.

V. CIVILIAN EVIDENCE

i. Original Depositions

[17] These depositions were all read into evidence in accordance with the rules and by agreement of all parties.

[18] A deposition was read from Mr Doherty's widow, Mary Ann Doherty, dated 4 May 1972. In that deposition Mrs Doherty said that she resided at 82 Iveagh Street with her four children and that her husband resided there until his death. She stated that she last saw her husband on Sunday 8 August 1971 when he left to go to work as a labourer with John Laing Builders. She said that on the Sunday afternoon she left home to spend a fortnight's holiday at a house, 17 Chapel Street, Killough, but

that her husband stayed behind as he had his holidays in July and had to go to work. Mrs Doherty described her husband as in good health when she left him.

[19] Anthony Morgan's deposition is undated. In it he stated that he resided at 24 New Barnsley Drive since 15 August 1971 and before that at 137 Norglen Parade. He said his wife is the sister of the late Edward Doherty. He said that at about 4:30pm on 10 August 1971 Edward Doherty called at his house with his father. He said he was in good form. Mr Morgan said that Edward Doherty left at about 4:50pm and said that he was going home to his own house at 82 Iveagh Street. He said the barricade was about 10 minutes' walk from 137 Norglen Parade.

[20] Robin Shields' statement is dated 4 May 1972. He said that he is employed as an ambulance driver. On 10 August 1971 about 5pm as a result of a message he left the depot to go to 7 Whiterock Drive. He said he went up the Falls Road to the Whiterock Road. He said when he got to the Whiterock Road he heard shooting and he could not get up the Whiterock Road because of it. He said he remained at the Falls/Whiterock junction for a time but the shooting continued and then he returned to the depot.

[21] Robert Brown's deposition is dated 1 May 1972. He said that he was employed as a driver by O'Kane Funeral Undertakers. He said that on Tuesday 10 August 1971 at about 7pm he went to 7 Whiterock Drive and collected the body of a man he now knew to be Edward Doherty and conveyed the body to Laganbank Mortuary. He said the Whiterock Road was blocked near Whiterock Drive, 20 to 30 yards from the barricade.

[22] Dr Kevin McAvinney in an undated deposition said he was a GP. On the evening of 10 August 1971 he went to Belfast City Mortuary, Laganbank Road, where he saw the body of a male identified as ED, 82 Iveagh Street and he pronounced life extinct.

[23] Thomas Doherty in a deposition made on 4 May 1972 said that he was the brother of the late Edward Doherty. He said it was about one month since he last saw his brother alive. He said that on 11 August 1971 he saw his remains at the Belfast Mortuary and identified the body as that of his brother. He said he knew nothing about the circumstances of his shooting.

[24] Detective Sergeant JD Wilson in a deposition made on 14 May 1972 said that on 11 August 1971 Thomas Doherty identified to him the body of his late brother Edward Doherty at the mortuary and that later he identified the body to the State Pathologist, Dr T K Marshall, who carried out a post-mortem examination of the body.

ii. Oral Evidence

[25] Mr James McCabe gave evidence to the inquest. His evidence is contained in a statement provided for the inquest of 5 October 2018 with a plan attached. He had not made a statement before. He said he lived in the area at the time. He said it was a terrible time – people were under siege after the introduction of internment. He said he had a clear unobstructed view of the digger at the barricade. He said the soldier exited the left door and fired continuously left to right. He said he was worried he would shoot again so he started firing stones at him. He said no petrol bombs were being thrown at the time, maybe later. He said there was a barrel of diesel in the barricade which went off. He said he did not see the man being shot but he saw in the aftermath a pool of blood and air bubbles coming from the man. He said he walked away and did not go home for two days. He said he still had flashbacks. He said he was prompted to make the statement as a result of reading an article in the Guardian newspaper. He said he had post-traumatic stress disorder and other mental health issues. When questioned, the witness referred to other internet research he had undertaken, a documentary he had watched and the fact that he was prompted to make the statement and come forward because he found out a “British soldier had changed his statement.” A number of inconsistencies were

put to this witness. The witness was however clear and demonstrated in the witness box that as far as he could recall the soldier fired a large number of shots “spraying the crowd” and “emptying his magazine.”

[26] Mr Martin McLaughlin also gave evidence. He lived in the local area at the time, but since 1990 he had lived in England so he travelled back to Northern Ireland to give evidence. He provided a statement on 5 September 2016 and a statement of 14 November 2018 to the Coroners Service of Northern Ireland (“CSNI”). These statements were read and then Mr McLaughlin gave the following evidence. He explained that he was a 9-year-old boy when the incident occurred. He lived at 51 Whiterock Road at the time. He said he saw some families on the news in 2016 and there was an appeal for witnesses to come forward, so he did. He said he was with his mother and sister on the day in question watching events unfold from the front bedroom window of 5 Whiterock Drive. His sister has since passed away and his mother has dementia. He said he saw a Mr Whelan outside who was a man his father knew. He said he was talking to another man he did not recognise. He described the barricade on Whiterock Road and the digger. He said there were bottles, bricks being thrown and petrol bombs, and the sound of rubber bullets. He said he saw a crate with petrol bombs in it. He said Mr Doherty was just outside No. 49, half turned, looking back towards the barricade. He said he was looking over his left shoulder, when he jerked or stumbled, fell forward and hit the ground and there was a pool of blood. Mr McLaughlin said he wanted him to get up. He said “I didn’t want to see it but I couldn’t unsee it.” Then he said “four men came and scooped him up.” He heard three maybe four loud cracks after that. He said people were running around after that.

[27] When questioned, Mr McLaughlin confirmed that he did not see the soldier shooting as he was concentrating on the man who was shot. He said he heard a single shot followed by three or four live rounds. He said the man who was shot was not running, he was looking over his left shoulder. The witness described the blood that was left marking where the man was shot and that people came and put

flowers and candles on the spot because that is where it happened and a man cleaned blood away from outside the gate.

iii. Pro formas taken by John Morris & Co

[28] Shortly after events a firm of solicitors called John Morris & Co took evidence from witnesses on a pro-forma form. These were all read into the record, by agreement of the parties, pursuant to Rule 17, save that of James McAreavey who gave oral evidence.

(a) **Patrick O'Reilly**

He said the incident occurred 10 yards past Britton's Parade on the Whiterock Road proper at 5:15pm on Tuesday 10 August 1971. He said there were 60 men, 25 women, 40 boys, 1 digger. He said the digger driver had a black beret, the soldiers red berets. He stated:

"Army arrived to remove barricades across Whiterock Road. They fired machine gun as they arrived at the barricade. Some of the crowd reacted by throwing stones and other missiles. The driver of the digger fired a shot and as there was no other shooting I assume this was the bullet that killed Edward Doherty.

Although I did not see Doherty fall, I am sure the driver who fired the shot did not see him either because of the trees in the barricade which were about fifteen feet high. I am also sure this man who was a stranger to the district had no part in the gathering at the barricade. This man in my opinion was the victim of an indiscriminate act."

In answer to the question “who fired the fatal shot?” he said “the soldier driving the digger.”

(b) **William Whelan**

This witness described the same scene and time. He said there were 40 boys there. He said the digger driver fired the fatal shot. In describing the situation immediately before the incident he said:

“Army approached barricade to remove it. Crowd started to throw stones. When digger moved in, something in barricade exploded. Driver panicked, leaned out, fired with left hand.”

He also said:

“I saw incident from house in front of barricade on Whiterock Road. I did not see what happened behind barricade. To the best of my knowledge the digger driver was the only one to fire through barricade. Paras, Sergeant fired a burst wildly across McCrory Park.”

(c) **James Park**

He described the same location and time. He said 500 youths were present and paratroopers (known by red berets). He said that the digger driver fired the fatal shot. He also said:

“As the army approached the barricade a crowd gathered behind it on the Whiterock Road and in McCrory Park

and a petrol bomb was thrown into the barricade, setting alight a 40 gallon drum of diesel fuel.

When the bomb had been thrown the digger driver opened fire into the barricade. There were some shots fired across the park by the army (probably using a sub-machine gun). The army did not seem to be aiming their fire at any particular individuals.

In the burst of fire from the digger a man behind the barricade fell wounded. He was carried to a house in Whiterock Drive. Some minutes later I went to this house and identified the body as that of Edward Doherty, whom I had known since my youth."

(d) **James Sloan**

He described the same location and time. He said 40 boys were there. He said he "was not present until shots were fired".

"I was standing at the corner of Whiterock Drive/Whiterock Road when I saw a man obviously wounded. I ran towards him and assisted him round Whiterock Drive corner and laid him on the ground. His left breast was saturated with blood and I could see he was dying. We carried him to 7 Whiterock Drive and I think he had died before we reached there. I heard one hour later he was Edward Doherty as he was identified by a neighbour."

(e) **Joseph Lunney**

He described the same scene within broadly the same time. Fifty men and 15 boys. He said he had no idea who fired the fatal shot. He said he assisted in carrying the wounded man with a Mr Sloan.

(f) **Thomas Lunney**

He referred to same location and approximate time. His statement refers to 10/20 men, 5/10 women, 30/40 boys.

He said a soldier from the other side of the barricade fired the fatal shot.

He said:

“Army arrived to remove barricade. They fired rubber bullets. Stones were thrown over the barricade at the army. One petrol bomb was thrown, it hit the top of the barricade and fell into the trees on the barricade.

I saw a man (afterwards identified as Edward Doherty) fall forward with hands outstretched in front of him. He had apparently been running away from the barricade when he was shot from the other side of the barricade. I went over to him thinking he had tripped and stumbled, but on seeing his face change colour, I realised he had been shot, although at first I thought he had taken a heart attack.”

iv. Oral evidence of Mr Joseph McAreavey

[29] Mr McAreavey filled out a pro forma with Morris solicitors. He also made a deposition to the original inquest. He completed a statement dated 16 November 2018 and he gave evidence before me. In his evidence he said that he recalls that he was taken from prison to give evidence, having been interned in Long Kesh from October 1971 to August 1972.

[30] He said that he did not know Edward Doherty well but he played football for Iveagh United and Edward Doherty was a supporter so he knew him to see. He said that in August 1971 he lived in Ligoniel. He came to the Whiterock area that day to assist distributing bread and milk to families around the barricades. He said there were tables erected on the road for this near Brittons Parade. He described the atmosphere at the barricade as "rough", "electric" and "chaos" as he said the Army was trying to break through and they were defending. He said men, women and children were throwing stones and a big tree was felled from the cemetery to form part of the barricade.

[31] Mr McAreavey said that he saw Mr Doherty go through the foliage trying to get through the barricade and he thought "there's that eejit going through the trees." He said that he saw the digger trying to get through, then the soldier shot Edward Doherty. He maintained that a bullet went through his own coat but he said there was one shot by the soldier and Edward Doherty said "I'm hit" and fell into his arms. He said there were no petrol bombs, no shooting, nothing by those at the barricade at that time. He said the soldier laughed and said "I've got one." He said he carried Edward Doherty over his shoulder to Mrs Mulligan. In answer to questions Mr McAreavey referred to another man being shot at the bottom of the Whiterock before this happened. However, he said it was "a lot of bunkum" that there was a crate of petrol bombs and no rubber bullets. He did not hear or see an explosion in the barricade. He said Mr Doherty was not doing anything suspicious, he was trying to get through the barricade; he may have slipped on glass and then

he was shot and fell into his arms. He thought the soldier may have been targeting him as he was the “biggest one there.”

[32] Mr McAreavey was asked about his differing accounts. In answer to questioning he said the first document of 21 August 1971 was wrong and the pro forma document from 1972 was not entirely correct. He said his account at the inquest was not full given that he was an internee and he was brought to court in handcuffs. He implied that he could not speak freely because of that. He said the most accurate account was that he had given to the coroner in November 2018.

[33] In the pro forma statement he provided at the time Mr McAreavey said that 250 men were involved. He said:

“I was told that people had been injured in McCrory Park. I was making my way through the crowd, down the footpath, alongside the barricade when a young man running away from the barricade stumbled on the footpath and bumped into me. Just then I heard a shot (I actually saw the leaves of the fallen tree parting as it zipped through). ‘I’m hit’ the man said he fell into my arms. I held on and carried him away about 30 yards to the gate of the second house past Britton’s Parade where we both fell. Mr Sloan then helped me to carry him to Whiterock Drive where my sister-in-law, a nurse, pronounced him dead.”

v. Other civilian evidence

[34] William Whelan is deceased. He completed a pro forma, made a statement to the HET in 2009 and spoke to Laura McMahon, parts of which were read out as follows. The thrust of this account was as follows. Mr Whelan was in his forties. He

said in this that he helped to build the barricade. He saw the digger coming and saw the soldier fire the shot. He never left the cab. He said he had no reason to fire as there was nothing going on. He said he helped bring Edward Doherty round to Mrs Mulligan's. He said there was a lot of rioting and he was involved. He referred to previous court proceedings where the judge accused him of collaborating with others to give the same statement. He said the barricade was high, as much as the pillars at the cemetery - 12 feet. Trees had been cut from the cemetery to build it. By agreement of the parties I also received a short video of Mr Whelan speaking about events at a relatives' event.

VI. MILITARY EVIDENCE

(i) M3

[35] Soldier M3 gave evidence and was questioned over two days. M3 is the current cipher given to this witness, however it is common case that he was called Soldier B at the time and his original deposition and statements use that cipher. I afforded anonymity and screening to this witness on the basis of an application I had received and in accordance with established legal principle. I did however permit a number of close family members of the next of kin to observe him. M3 was questioned at length and I have reflected carefully on all of the evidence he gave and the documentary evidence I was provided with. If I do not specifically mention some detail it does not mean I have not considered it. I highlight only the main parts of this evidence in this narrative but I have considered all of it in reaching my conclusion.

[36] M3 filed a comprehensive statement of 29 October 2018 for the CSNI. In addition, he made statements to the Royal Military Police ("RMP") in 1971 which are dated 12 August 1971, 13 August 1971 and 28 October 1971. He was interviewed by the HET on 16 June 2010. M3 also gave an interview to Panorama at the time and that was viewed in pixelated form and a transcript was provided during the inquest.

[37] In addition, M3 attached the relevant portions of the Yellow Card to his statement for CSNI and he was questioned about these sections which I record here as this issue is of particular relevance. The following sections apply:

- “2. Never use more force than the **minimum** necessary to enable you to carry out your duties.
3. Always first try to handle a situation by other means than opening fire:
 - (a) Fire only aimed single shots;
 - (b) Do not fire more rounds than are absolutely necessary to achieve your aim if you have to fire.
5. **A warning must always be given before you open fire.** The only circumstances in which you may open fire without giving warning are described in para 12 below.
7. **You may fire after due warning -**

against a person carrying a firearm but only if you have reason to think that he is about to use it for offensive purposes.
8. **Against a person throwing a petrol** bomb if petrol bomb attacks continued in your area against troops and civilians, or against property, if his action is likely to endanger life.

12. You may fire without warning -

Either when hostile firing is taking place in your area and a warning is impracticable, or when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself, and then only:

- (a) **against a person using a firearm** against members of the security forces or people whom it is your duty to protect; or
- (b) **against a person carrying a firearm** if you have reason to think he is about to use it for offensive purposes.

Note: 'Firearm includes a grenade.'

[38] M3 explained that he was a member of the Royal Engineers in 1971. He said that he was deployed with 2 Para D Company with the task of clearing barricades. He said he did 12 weeks basic training upon enlistment in 1969. That involved basic weapons training. He said he received the Yellow Card manual and he was told to keep it with him. He said he had his own Allis-Chalmers tractor which he used for the whole tour. He described this as a reliable vehicle, with a maximum speed of 15mph. He said the only door was on the left- hand side.

[39] On the day in question he said he had a Sterling submachine gun which would use low velocity 9mm bullets. At paragraph 18 of his statement to the CSNI M3 explains that:

“The magazine would have been attached to the gun when stored. The gun had a change lever which is a three position switch. The furthest back that the lever can go is “S” safe. In the safe position the gun won’t fire. It is possible to cock a gun when it’s on S but in order to fire you have to move the lever to the first position. The first position, which is one click forwards towards the barrel is R - repetition. Repetition means that the gun fires one round with a squeeze of the trigger. The other setting is A - automatic, where if you hold the trigger it will empty the magazine. If you give the trigger a short press then it will fire in bursts.”

[40] M3 described being deployed on 9 August 1971, which was the day of the internment operation. He explained that he was tasked to clear barricades and that the barricade where these events occurred was the largest he had ever seen. He also described that there were crowds of people on the street around the barricade. He said there were missiles being thrown: stones, petrol bombs and a blast bomb. He said 12 soldiers were deployed from the armoured personnel cars or “pigs” accompanying him.

[41] In his statement provided to the CSNI the witness described his numerous attempts to get through the barricade. He repeated this in evidence, namely that after numerous failed attempts to get through the centre of the barricade he moved to the right hand side of the road where he thought he could see a gap. During the previous manoeuvres he said there was blast which buckled one of the wheels on the tractor. He said he managed to move some of the barricade at that point. It is at this stage that he says he saw a man facing him on the other side of the barricade and that this man threw a petrol bomb at the tractor and it exploded over the front of the left wheel. However, he tried again and “went to have another run at the barricade.” At this point he said he had his weapon across his lap for defence. He said that he

saw the man throw a second petrol bomb. Then he refers to the man gesturing for the crowd to join him, lighting a petrol bomb and climbing the barricade and as he was preparing to throw a third petrol bomb, M3 said he shot him. In his statement M3 said the man was the only person on the barricade, moving towards him, with a lit petrol bomb and he was encouraging others to join him.

[42] M3 was clear in his evidence that he saw a man throw a petrol bomb over the barricade towards the tractor. He placed his weapon across his lap for defence as he felt his life was in danger as there was only one exit to the left from the tractor. He said he had five rounds in his weapon. At paragraph 40 of his statement made to CSNI he states that:

“A Sterling SMG magazine can hold 30 rounds and I believe that the RMP soldier who drafted my statement assumed that is how many rounds I would have had. In fact, as a Sapper, I only had 5 rounds in my SMG. This was the standard issue of ammunition for an SMG. We did not have access to lots of ammunition, as we only had our weapons for protection.”

[43] M3 said that he gave no warning in these circumstances but he maintained that warnings had been given by other soldiers on the ground. During the evidence M3 then described an escalation in violence which he said involved petrol bombs and live rounds. By then he said a soldier E had told him to halt. He said he began reversing when he saw a man in the vicinity of McCrory Park with a rifle. He said he opened the window on right hand side of the vehicle and fired the remaining 4 rounds at him. He said the gun was incorrectly in the automatic position. In the course of this soldier M3 was injured in the face, he lost consciousness and control of the vehicle and he was ultimately taken away for treatment.

[44] He said that while in hospital he was shown a photograph of Edward Doherty and he identified him as the petrol bomber.

[45] M3 said that he did not receive a debriefing. He also confirmed that he received a Military Medal for bravery. He said that he attended the original inquest in 1972. Finally, to complete his evidence the witness was shown the Panorama video and confirmed that was him but he could not actually remember it.

[46] In answer to questions, M3 explained that he did not extend the gun. He did not fix sight. He held it with his dominant left hand and fired one shot, having only a few seconds to make up his mind that this was what he needed to do to protect himself. He accepted in evidence that he may have missed the man throwing the petrol bomb and hit another man. During his evidence M3 also agreed that he may have made a mistake in his identification of Edward Doherty when he was shown the photograph in the hospital.

[47] M3 said that he did not see the man he was shooting at sustain the wound so he was asked the following question by coroner's counsel:

"Is there a possibility that you missed the man firing the petrol bomb and hit another person who was further up the road?"

M3 agreed that this was possible."

[48] He was also asked about the position of the barricade and agreed it was roughly at the point between the H-I of the words Whiterock Road on Plan B. He was then asked the following question by coroners counsel:

“Well, if I can put it like this, if you did miss the petrol bomber then the line of fire was in the direction of the location I’ve just described, is that right? is that fair?”

M3 agreed that was right.”

[49] During examination by counsel for the next of kin M3 was taken through all of his statements made to the RMP and HET. It was suggested that different evidence had been given about the petrol bomber – for example, his account changed from the man being in front of the crowd to climbing up the barricade. In his original statement, it was put to M3 that he said there were 30 rounds in the gun, while in the most recent he said five. He was asked why he had not taken the opportunity to correct that when he spoke to HET. It was suggested that he was embellishing his account to suit his own ends and to try to justify his actions. M3 denied that suggestion.

[50] M3 was also examined about his own medical condition and in particular a medical note from the time which referred to his story being “grossly inconsistent.” It was also put to him that there was no mention of loss of consciousness and that at its height the injury was a slight graze to right temple and particles in his cornea which required eye drops. The relevant personnel in the military hospital was a captain who recorded the narrative was put to M3 as follows:

“The story he gives is grossly inconsistent and concerns his attempts to demolish a barricade in Belfast on the 10th of August 1971. He was apparently involved in a gun battle, during which a bullet grazed his right temporal region and he was knocked out not before he had emptied the rest of his magazine in the direction of a hidden gunman however. This story of dizziness, followed by loss of consciousness, may be related to the fact that it is

his reason for knocking down the side of somebody's house as well as the barricade."

[51] I have also considered the statement of Soldier B which was submitted to the original inquest on 4 May 1972. In this statement Soldier B (now known as M3) described firing one aimed shot at a man whom he said was throwing a petrol bomb, before being struck on the right side of his head and knocked unconscious. Soldier B later identified this man as Edward Doherty.

[52] The same soldier gave a statement to the RMP on 12 August 1971, in which he described the incident in which he was struck on the head and said that:

"I had my weapon in my left hand being a left handed shot, and, holding the door open with my right hand, I brought my weapon to the aim at the man with the rifle. As I did so, I received a blow to the right side of my head with what I do not know, but my right eye was injured. I was partially blinded but I fired at the man with the rifle. I must have inadvertently engaged the change lever on automatic as I emptied the magazine firing towards the rifleman."

[53] M3's personnel file revealed that he was dismissed from the Royal Navy in 1969 and then charged with cashing a stolen cheque in June 1971.

[54] In response to the obvious issues which arose from M3's differing accounts, he said that the RMP had got some details wrong in his original statements. He also said that he did not correct HET during their interviews as he was in bad health at the time. He accepted when questioned by MoD counsel that he may be wrong about the identification. He said he was stunned by all of this and that might have explained inaccuracies in the medical reports. In relation to the disciplinary record

he said he took a staff car and so was discharged from the Navy but he was very young at the time.

[55] At the conclusion of his evidence M3 said that this incident has remained with him. He said that he wished he could turn back time and he said he wanted to offer his sympathy to the family of Mr Doherty. He confirmed that at the time he was also shown a photo of Joseph Corr which he said was the second man he shot at on the Whiterock Road that day. M3 was the only military witness to give evidence.

(ii) Soldier A

[56] Evidence was also read from the statements of Soldier A. He was present at the time of this incident. He made a number of statements to the RMP and made a statement for the inquest dated 4 May 1972. In that statement he said he was employed as an Internal Security Operative in Andersonstown on 10 August 1971 tasked with removing road barriers erected by rioters. He said Soldier B (now M3) was also part of the operation. He described the barricade on the Whiterock Road. He said there were 200-300 persons assembled in the grounds of a school on the right hand side of the road, behind the line of the barrier. He said that "as we arrived at the barrier a large number of assorted missiles, petrol bombs and one nail bomb were thrown by these people, and by several others located in the grounds of the cemetery on the left hand side." He then described attempts by the shovel operator to break through the barrier which were without success. He said in the meantime several rubber bullets were fired into the crowd.

[57] He said that after 15-20 minutes the order was given for personnel to move in the Armoured Personnel Carriers ("APC"). They then reversed. He said he also saw the shovel reverse and he saw the driver with the right-hand cab door open firing his 9mm Sterling submachine gun towards the school grounds. Soldier A said he could not see what he was firing at but it was two bursts. Thereafter, he said that the mechanical shovel vehicle was driving in an erratic manner and he ordered his

personnel to assist. He said that shortly after B was taken away, he saw a man throw a petrol bomb in the general direction of the APCs from the cemetery. He said he took one aimed shot at him and that he is certain he did not hit this man. At the conclusion of this statement, Soldier A said:

“I would like to add that whilst at the barrier at the start of the rioting the civilians were given about 20 or 30 warnings about throwing petrol bombs. They were shouted at by myself and other personnel at the scene but they had no effect.”

Soldier A has never been identified.

VII. PATHOLOGY

[58] This evidence was given by Professor Thomas Marshall who was State Pathologist in 1971 and who conducted the post mortem. Dr Benjamin Swift, Consultant Forensic Pathologist, and Dr Nathaniel Cary also gave expert evidence on the pathology issues. Various reports were provided by these witnesses and they helpfully discussed matters leading to an agreed note of 23 November 2018, compiled by Dr Swift which reads as follows:

“Summary of Opinion

1. The following points are agreed between Dr Cary, Professor Marshall and myself:
 - (a) ED died as a result of a single gunshot wound to the chest, which caused catastrophic internal bleeding due to damage to the aorta (the main blood vessel in the body) and penetrating injury of

the lungs. As such, death would have been rapid but not instantaneous.

- (b) The wound to the left lower chest was the entrance wound.
- (c) The wound to the right chest was the exit wound.
- (d) The appearance and internal description are entirely consistent with having been caused by a ballistic projectile such as a 9mm bullet (a low/medium velocity projectile).

We are all in agreement that the wound depicted is not consistent with a high velocity ammunition round.

2. It was agreed by Dr Cary and myself that there was more than one scenario by which the deceased could have received the gunshot wound.

- (a) Dr Cary states that it is not possible to exclude other scenarios, such as the deceased being shot while running away, bent over, or whilst lying down (the latter of which Dr Swift would not disagree with in theory).
- (b) Dr Swift reiterates that, of the two scenarios provided within the supplied witness statements the pathology would better fit the account of soldier B and that there has been no suggestion of

Mr Doherty lying prone when he received the single fatal wound.”

[59] Dr Swift also gave oral evidence. He confirmed that he was working from photographs and that presented a limitation. In evidence Dr Swift ignored Professor Marshall’s measurements. Dr Swift said he thought the accounts of Soldier B best fit the pathology. However, he said there were a “great variety of possibilities” of how the deceased sustained the injury he received. He said it was quite an unusual site – given the height discrepancy between entrance and exit, the bullet was moving upwards. Dr Swift agreed that if the deceased’s body was bent in some way that would explain an upward moving bullet. Or if facing away, with left side exposed and the body was bent that would suffice but there would have to be twisting.

[60] Professor Marshall gave evidence and confirmed that he conducted the post mortem on Mr Doherty on 11 August 1971 at 6pm. He said that there was no issue regarding the velocity of the bullet involved as categorisations have changed over the years and that was the reason for the difference in the reports. Today, the bullet would be described as low/medium velocity. Professor Marshall stood over the measurements given in his report but he stressed these were estimates taken at the time without precise measuring instruments, from his assessment of the deceased’s body. He observed that you cannot look at photographs to take measurements, you have to be there; it is an estimate and the 10° estimate of inclination is probably the most useful guide, this is in essence a back to front, left to right, upwards bullet wound.

[61] When questioned, Professor Marshall agreed that the history was given to him and was hearsay. He also agreed that if he had noted some feature such as a smell of petrol he would have included that in this report. Professor Marshall could not assist regarding the photograph that was produced of Mr Doherty with his

clothes on. He said he would have seen the man's clothes but not examined them in detail. He said:

“I have no note here that there was a scene of crime officer so this was probably in the days before we had them and in those days, the early days, we would hand the material to the police.”

[62] Mr Albert Fleming gave evidence. He was a scenes of crime police officer at the time. He provided a deposition to the original inquest dated 4 May 1972. In that he said that he took swabs from the right and left hands of the body of John Edward Doherty. He said he also took possession of the following clothing from the body:

- (i) Green woollen shirt.
- (ii) Cotton vest.
- (iii) Dark blue trousers with black plastic belt.
- (iv) White cotton trunks.
- (v) Pair of slip on shoes.
- (vi) Pair of red patterned socks.
- (vii) Dark blue suit jacket.

[63] Mr Fleming stated that he handed the swabs and clothing over to the Department of Industrial and Forensic Science. When questioned, Mr Fleming could not say why no results were provided. He confirmed the process for taking swabs to test for gunshot residue. He could not recall if the swabs were also tested for petrol.

VIII. BALLISTICS

[64] Helpfully, the three ballistics experts met and filed an agreed note of their position dated 6 December 2018. The experts, Mr Olden, Mr Mastaglio (with Ms Shaw) and Ms Kiernan also filed comprehensive reports which were put before

the court by agreement. I set out the following relating to wound information which is by agreement of these experts and which I take from the minute:

- “6. The reported wounds are consistent with ‘low velocity’ such as 9mm Sterling SMG, rather than high velocity.
7. The reported wounds are consistent with entry to the left side of the back and exit from the front right chest.
8. The reported wounds are consistent with a direct shot rather than the result of a deflection/ricochet.
9. The wound track described by Dr Marshall indicates little or no deflection/deviation to the bullet’s path.
10. The resolution of the potential ambiguity between the internal/external entry/exit sites is strictly one concerning anatomy and would be more suitably addressed by a pathologist.

Relating to the posture of Edward Doherty when he was struck by the bullet

11. The bullet struck the left side of the back and tracked forwards and from left to right in relation to the body (recorded as 45 degrees left to right angle). This indicates that ED’s back was not directly facing the firer, nor was his left side, but

that he was turned approximately mid-way between these two points.

12. The bullet wound track was at an upwards angle in relation to the body (between approximately 10 and 30 degrees upwards, depending on how the post mortem report is interpreted). The finding could be explained if the shot had been fired from the cab of the tractor when ED was located the other side of the barricade (ie at a lower level), if he had been leaning or bending such that his right shoulder was lower than his left.
13. Such an explanation could also apply if ED had been on the barricade, assuming that he was located at a height level lower than, or the same as, that of the firer.
14. Given the various uncertainties it is not possible to reliably assess the extent of such leaning or bending by ED when the shot was fired. The information available therefore allows for the possibility of ED running (while leaning/bent) or bending down to the ground or throwing. It does not provide support for any particular one of these explanations over the other.
15. It is not possible to determine the firing distance or the location of ED when the shot was fired.

16. It is not possible to determine whether the shot was the result of semi or full automatic firing.

Regarding shots reportedly fired at man holding a rifle

17. Available information varies regarding the “fully automatic” firing by Soldier B at the man holding a rifle (whether fired from left to right side of cab) – MSM refers to Soldier B’s latest comment (not previously available to PO or AK) implying that 4 shots were fired fully automatically rather than 29.
18. It is possible to discharge a two shot burst with a Sterling SMG – however it would be difficult to achieve deliberately due to the Sterling’s rate of fire.

PO, MSM, AK agreement

19. The selector lever requires firm pressure to change its position between the three settings (A, R, S) which would be apparent to the operator.
20. A relatively short burst of full automatic fire could potentially be achieved without losing control of the gun, despite it being held in one hand. This would depend on the ability of the person firing to maintain a strong and secure grip on the gun.

Regarding lead testing

AS

21. The lead testing for lead particles on the swabs and clothing of Mr Doherty appears to have been carried out. The original forensic file has not been located and there are no items available for re-examination."

[65] In addition to this written record Mr Olden gave some oral evidence. He explained the discipline of ballistics. In summary, he said this case involved relatively short distances and a stable bullet. He said the disagreement about the angle between entry and exit (10° or 25°) did not really matter in general terms. His conclusion was simply that to achieve the upwards angle of the wound track, given that the firing angle was downwards, the deceased's right shoulder had to be lower than the left. He said the deceased could have been flinching or crouching, looking over his left shoulder. He agreed when questioned that if standing straight and upright outside No. 51 this could not have happened.

[66] Mr Mastaglio was also called and he was specifically asked about ignition of the diesel barrel. In answer he said that perforation of the barrel alone would not cause ignition, it needs a spark or a flame and a lit petrol bomb would do.

IX. ADDITIONAL EVIDENCE

i. A further civilian witness

[67] A witness came forward late in the day and provided a statement of 4 July 2019. I also heard oral evidence from this witness on 24 September 2019, who is known as C5 as I afforded him anonymity. The background in which C5 came to

give his evidence was examined during the evidence. From that examination it became apparent that C5 only became aware that Mr Doherty's death was part of the Ballymurphy inquest when socialising in a pub some months prior to making his statement. He said he was talking to two men. C5 was asked to identify the men. He did not want to do so in open court but he provided the names to me, after which it became apparent that one of the men had previously given evidence in the inquest. C5, when asked, said this man had not mentioned giving evidence to him. During his evidence C5 said that maybe five or six persons had contributed to the conversations which resulted in C5 being advised to see a solicitor, which he did. He was 22-23 years old at the time and lived in the area, although he left some three years later.

ii. M748 Recall

[68] M748 was also recalled to give evidence in Mr Doherty's inquest because he had completed an Army 'Injury Report.' Part 1 of the form signed by M3 records that:

"I was driving a MWT in the Whiterock Rad area on the afternoon of 10 July 1971. After clearing a barricade I saw a gunman running across some waste ground on my right. I opened the cab window to engage him and he opened fire. His bullet hit my tractor and ricocheted hitting me on the side of the head and threw glass into my (R) eye."

M748 said that the date of 10 July 1971 is likely to be an error. The correct date should be 10 August 1971. M748 was unable recollect the injury report or provide any assistance in regard to the death of Mr Doherty.

iii. Military logs

[69] There are limited records of this incident, however three relevant records are found in the 2 Para Log, the 39 Brigade Log and HQ NI Log, all for 10 August 1971. These are summarised as follows:

2 Para Log for 10 Aug

Serial	Time	Detail
125	1723	Report from RUC, Driver of Moby Dick at Andersonstown wounded

39 Bde Log for 10 Aug

Serial	Time	Detail
259	1748	54 Bty (54 Battery Royal Artillery) - While clearing a barrier on the Whiterock Road in 54 Bty area Para Sapper tractor driver shot in the head, now in RVH, not thought to be serious, as known happened about 1700

HQNI Log for 10 Aug

Serial	Time	Detail
79	1805	A sapper belonging to 53 Bd Sq att to 54 Sgn with 3 Queen's hit in head by bullet from a barricade in Andersonstown. Wound believed to be only a graze but soldier now in RVH.
87	1950	Boy named Docherty (sic) was found wounded has since died believed from Whiterock area.

X. CONCLUSIONS FROM THE EVIDENCE

[70] This event occurred nearly 50 years ago when Northern Ireland was experiencing a turbulent time known as the Troubles. The passage of time is significant and it obviously makes the task of adjudication extremely difficult. I must bear in mind that memories of these events may not be accurate. I must also take into account that people may be consciously or subconsciously influenced by what has been said about this event since it happened in the community or in the media. Even with the best will in the world it is impossible to remember every single detail of events that occurred so long ago with accuracy. However, I must try to see if I can

establish facts on the balance of probabilities. In undertaking this task I have considered a wide variety of evidence. It is tempting to pick through it all highlighting consistencies and inconsistencies. However, interesting as that may be I have taken an overall, holistic view in the search for answers. That is because no one piece of evidence is determinative and it is extremely difficult to establish the fine detail of events at this remove. The contemporaneous evidence is important but I bear in mind the limitations of investigation at the time. Many witnesses are also deceased or unable to attend. Those who have attended are understandably hampered by having to remember events so long ago.

[71] Notwithstanding the above, I have an obligation to decide as much as I can. Having considered all of the evidence two issues are clear. Firstly, the location of this event is uncontroversial. Secondly, the fact that M3 fired the shot that killed Mr Doherty is not disputed. The exact circumstances are more difficult to determine.

[72] Helpfully, counsel isolated four potential scenarios as follows:

- (i) M3 fired at Edward Doherty who was about to throw a petrol bomb.
- (ii) M3 fired at a person who was about to throw a petrol bomb. The bullet missed the petrol bomber and fatally wounded Edward Doherty.
- (iii) M3 fired at the man with the rifle who was Edward Doherty.
- (iv) M3 indiscriminately discharged the weapon (and emptied the magazine of his Sterling SMG) into the crowd whereby one bullet struck and killed Edward Doherty.

[73] In terms of these possibilities there was no evidence that would lead me to think scenario (iii) is at all realistic. There is limited corroboration of M3's account of

the gunman and whatever evidence there is does not point to Mr Doherty given his location. This scenario can be ruled out.

[74] In deciding on any of the other scenarios I begin my analysis by consideration of the ballistics and pathology evidence. In doing so I must record that the striking feature of this category of evidence is that none of the experts could be sure of what happened. I note that Dr Swift seemed to prefer M3's version of events as a likely cause but he was not definitive on that. In my view it is safer to say, as Dr Swift did in the agreed note, that there are a number of options.

[75] I found Professor Marshall's evidence particularly persuasive as he examined the body at the time. That is of considerable benefit rather than an assessment of photographs. Professor Marshall said that his measurements were estimates. Without being overly formulaic he stated that there was an upward angle between the entrance and exit wound. In answer to questions, Professor Marshall said he would have noted something such as the presence or smell of petrol so if he did not it was not there. He said that the history was given to him by police and so the account that Mr Doherty was throwing petrol bombs is not to be equated with fact.

[76] Drawing from the pathology evidence I conclude that Mr Doherty died from a single gunshot wound to his chest, back to front, left to right with an upwards trajectory, caused whilst the deceased was running or bent over in some way. There is no evidence to support the theory that he was lying down.

[77] The ballistics evidence also left open various possibilities as is apparent from the agreed note. I am grateful to Mr Olden who summarised the position in an accessible and effective manner when giving evidence. During his testimony he simply said (and demonstrated) that the deceased's right shoulder had to be lower than the left to achieve the upwards trajectory. In other words he could not have been standing straight.

[78] Mr Fleming's evidence was also important in that swabs were taken and sent for testing but no results were provided. There was no explanation given for this and so I proceed on the basis that there is no evidence of gunshot residue or petrol residue pertaining to the deceased.

[79] I now turn to my analysis the civilian and military evidence. First, I have considered those witnesses who gave statements but did not give evidence before me. I approach this evidence with some caution given that it is untested. However, there is value in it, given that it is contemporaneous evidence. The civilian reports from the time do not present one consistent thread, however looking at it as a whole I find the following background facts established on the balance of probabilities.

- (i) The location of the barricade was clearly near to the junction of Britton's Parade at the Whiterock Road. This equates to other evidence I heard that it was probably between the letter H and the letter I in WHITEROCK on the map (see **Annex 3.1**).
- (ii) A crowd had clearly gathered just before Edward Doherty was shot. It is impossible to know exactly how many were there but I think it is safe to say it was substantial and probably over 50 people.
- (iii) The atmosphere was tense and it is clear to me from the statements that there was some hostility on display towards the Army.
- (iv) There were missiles being thrown. In the statements there is also broad support that petrol bombs were a feature. In my view that makes sense and is the most consistent narrative given. I am also satisfied that there probably was an explosion in the barricade.
- (v) A tree was cut down and formed part of the barricade.

- (vi) M3 fired at the barricade from the tractor.
- (vii) Mr Doherty was not engaged in any particular activity.
- (viii) There was a lot of noise in the area including the sound of rubber bullets.

[80] This evidence is only part of the picture. My ultimate conclusion has also been shaped by the oral evidence I heard, particularly that of Mr McLaughlin, Mr McAreavey and M3. Having reflected on all that has been said by these three core persons I have reached the following conclusions.

[81] I begin by saying that Mr McAreavey's evidence troubles me in a number of respects which I explain as follows. First, I cannot accept as realistic his account that there were no petrol bombs being thrown. I do not think that makes sense given the environment and this assertion is in conflict with the bulk of the other evidence. Second, I do not think his account of Mr Doherty being up on the barricade pushing through the foliage "to get to the hospital" adds up. Again, this does not accord with other civilian accounts. He is really the only person who places Mr Doherty on the trees which made up the barricade save M3. Third, I am not convinced by Mr McAreavey's description of Mr Doherty falling into his arms and him carrying him to Mrs Mulligan's. I am not inclined to adjudicate on Mr McAreavey's own role however I think he is mistaken so far as Mr Doherty's position at the time he was shot is concerned. Overall, I found Mr McAreavey's account to be out of step with the bulk of the other evidence and so I cannot rely on him as an accurate historian of events.

[82] Mr McLaughlin was only nine years old at the time, so there are obvious concerns in my mind as to the strength and accuracy of his recall. However, I do wish to record he was an extremely impressive witness. He also lived at 51 Whiterock Road which is right at the heart of this scene. I entirely accept that someone standing at the window of that house would have been able to observe

events. Mr McLaughlin told me that he did witness events at the time and that he saw Mr Doherty fall. He said there were petrol bombs being thrown. He also said he saw Mr Doherty turn to the left although that does not totally reconcile with the ballistics and pathology evidence.

[83] In other words Mr McLaughlin said that Mr Doherty was somewhere outside No. 51 or in that vicinity when shot behind the barricade, in a turning position, probably flinching or crouching and he was not throwing petrol bombs. This is important evidence which was clearly given. The issue is whether I can rely on it given the fact that Mr McLaughlin was a child at the time and the passage of time which may have corrupted his memory. I have considered these factors, however I do place some weight upon the evidence, given that this view is corroborated by other statements taken at the time that I have set out in the course of this narrative which refer to Mr Doherty being behind the barricade and acting normally. Therefore, on the balance of probabilities I find that Mr Doherty was somewhere in the vicinity of the pavement outside 51 Whiterock Road.

[84] C5 came to the inquest late in the day, which is unusual and so he was questioned about his motivation. In his evidence C5 said he did not follow the inquest in the media. He also did not make a statement at the time and it is clear that his recollection differs from other witnesses, particularly in one material respect – i.e. that M3 got out of the cab, kneeled and took a position before firing at a man on the pavement. Only one other witness, James McCabe, claims he saw a witness get out of the cab and shoot. The bulk of the evidence is against this and I prefer the preponderance of evidence that M3 shot from within the cab. This chimes with the highly charged situation where M3 was under attack from petrol bombs, and he was failing to move a barrier. I do not think it is credible that M3 would have got out of the cab in the way described by C5. It seems to me that at this remove of time C5 is mistaken.

[85] I am also concerned that his story may have been influenced by his conversations at the pub which resulted in him coming forward. Overall, this is not an account upon which I can rely in terms of identifying the location and circumstances of this death. C5 has tried to help and he was probably in the vicinity at the time as he lived in the area, however his evidence is not exact or reliable as I have said on the core issue. I place some weight on his general observations, that there were people at the barricade, stone throwing and petrol bombs but other than that I cannot rely upon the details he has given.

[86] I then turn to an assessment of M3's evidence. As I have said, M3 came and gave evidence over two days and so I have been able to assess what he said to me along with the statements he made in coming to my conclusions.

[87] In examining the evidence of M3 it is apparent that M3 has given different accounts at different times. I will not rehearse all of this but I will highlight some particular issues. I start with the identification of Mr Doherty. This is contained in M3's statements from the time. In a sense matters have moved on, as M3's evidence to me was that he could not be sure with his previous identification of Mr Doherty. That comes as no surprise to me because the identification was clearly flawed given the way the photograph was put to him by the RMP. Also, I am satisfied that the descriptions do not match up in any event. The serious question marks over this procedure are exacerbated by the fact that Mr Corr's photograph was also put to M3 in an attempt to identify the gunman in the waste ground. Therefore, I do not rely upon the historical identification evidence of Mr Doherty as the petrol bomber. That means that I also rule out scenario (i).

[88] However, I accept the part of M3's evidence about what he was doing that day. I accept the evidence that he tried to break through the barricade in the centre part but failed and then he moved to the right- hand side. I accept his evidence that a device exploded in the barricade during the first attempt, particularly as that account was corroborated by others. I accept his evidence that he was making more

headway at the right hand side of the barricade and there he came across the petrol bomber. On the basis of his evidence I cannot say how many people were behind the barricade, but I accept the evidence that someone threw a petrol bomb which exploded at the front of the vehicle and that M3 reversed back and then made a further attempt to break through. I accept that the man threw a second petrol bomb at the vehicle. I cannot be sure that there was a third petrol bomb on the basis of the statements but there were at least two thrown directly at the Allis-Chalmers M3 was in.

[89] At this point the evidence of M3 is not as clear. In his original statement he says that he saw the man lift the petrol bomb from a crate, light it and throw it. In evidence he said the man was only visible waist up as he was standing on the trees forming the barricade which were substantial (variously described as 15-20 feet high) and he was only 20 feet away.

[90] Also, M3's account of the gunman on the waste ground is hard to follow. In his statement he refers to hearing one or two shots from the direction of the road on the waste ground. It is also important to note that the medical record from the time refers to his "gross inconsistency" in describing this event. There is no reason to believe that the medical report is anything other than authentic. M3 seems to have sustained an injury but clearly there was scepticism as to the extent of it and his story on the basis of what the medical officer documented. I cannot be satisfied that M3's evidence is wholly reliable in relation to the gunman.

[91] M748 had no actual recollection of taking this account. However M748 said he would have spoken to M3 and others, although no statements are forthcoming. In his evidence M3 accepted that he did not actually see a gunman open fire or have personal knowledge of a bullet ricochet causing the injury. There is therefore a question mark as to how this official account came out and whether it was created to try to explain and justify the shooting of Mr Doherty.

[92] There is another part of M3's evidence which is hard to comprehend. That relates to the ammunition used and how the Sub Machine Gun ("SMG") was fired. First, as regards the ammunition, M3 has clearly sought to distance himself from his deposition in 1972 which clearly recorded that there were 30 rounds of ammunition in his gun. He did not correct the alleged error when interviewed by HET in 2010. Yet now he states that there were only five rounds in the gun.

[93] In my view it is also unbelievable that M3 would fire one shot at the petrol bomber and then mistakenly place the machine gun into automatic mode which he said he did when firing at the alleged gunman. This does not make sense, particularly as all of these events happened so quickly.

[94] It is also important to note that by his own admission M3 did not have the butt of his submachine gun out, he did not sight it and he held it in his hand when he fired. To my mind the most likely scenario is that M3 fired around the area of the barricade. M3 was using a powerful Sterling submachine gun. I cannot say exactly how many rounds were fired in which direction and at which point. However, I conclude on the balance of probabilities that M3 fired a number of shots as some of the civilian witnesses suggest. I am not convinced that this was in the way described by James McCabe but I am satisfied on the balance of probabilities that there was more than one shot fired at the barricade.

[95] M3 accepts that he gave no warning. The only mention of warnings comes from Soldier A. On any reading M3 acted in contravention of the Yellow Card which specifically requires a warning to be given.

[96] I cannot say who the petrol bomber was that M3 shot at, even though the parties have asked me to speculate about that. I have already said it was not Mr Doherty. He was an innocent man who posed no threat. He was on the street and came across all of this on his way home and was probably stopped maybe talking to someone and thinking about what to do next. There was a lot of

commotion and noise and rubber bullets being fired and so it is reasonable in my view to accept that Mr Doherty was not standing upright at the relevant time. I cannot say what exactly his stance was but I am willing to accept that his body was bent or twisted in some way in accordance with the expert evidence. The body showed no signs of petrol or explosives. Mr Doherty was not associated with any terrorist group. He was an innocent victim of this situation.

[97] That leaves an assessment of the reasonableness of M3's actions in shooting at the petrol bomber. Was he justified in doing so, in fear of his life? He says he was on the basis that he was exposed, in an unarmoured tractor and faced with a man throwing a petrol bomb for the third time. He accepts no warning was given but he says he had to act on the spur of the moment.

[98] In all of the circumstances of this event I am satisfied that M3 did hold an honest and reasonable belief that his life was in danger. Therefore, I am prepared to accept that the use of some force against the petrol bomber was justified. However in my view his actions went beyond that. I cannot accept that M3 fired as indiscriminately at the barricade as suggested by the next of kin, as I think there would have been greater injury in that case, but it seems to me that he probably fired a number of rounds at the barricade. I do not accept that he fired only one shot.

[99] In a consideration of this nature the law requires the use of force to be proportionate and for there to be a minimisation of risk to prevent loss of life. M3 knew that there were people other than the petrol bomber in the area. I understand that M3 is now saying he may have hit Mr Doherty when he was actually aiming at the petrol bomber. I bear in mind that the first time he referred to that as a possibility was at this inquest in answer to coroner's counsel. When put to him, M3 said that this may be a possibility and that if Mr Doherty was in a position around 51 Whiterock Road that was within the line of fire. Having analysed all of the evidence, I can accept that M3 fired in response to being confronted by a petrol bomber, and that Mr Doherty may have been in the line of fire. However, as I have said, I do not

accept that M3 fired a single aimed shot. I am satisfied that the use of force by M3 was disproportionate to the risk posed to him.

[100] I conclude that M3 fired a number of rounds one of which hit Mr Doherty. I cannot say whether that was a round specifically aimed at the petrol bomber or not. Therefore my conclusion does not accord fully with either of the two remaining scenarios (ii) and (iv) although it includes elements of both. That is as much as I can say about how this death came about. In any event, I am satisfied that there is a breach of Article 2 given that the shooting occurred without minimisation of risk.

[101] I also conclude that these individual actions of M3 were not properly examined or investigated at the time. That is clear to me given the absence of accounts from other soldiers and upon examination of the official records of M3's injury.

[102] Finally, I must record that I do not rely on matters raised from the personnel file, to establish bad character. Rather, I am simply not satisfied that M3 presented me with an entirely credible explanation for his actions. My view is strengthened by the varying accounts M3 has given and his changing evidence put forth to justify his actions. Unfortunately, Mr Doherty was caught up in what happened in this incident and he lost his life as a result.

XI. VERDICT

[103] (a) The deceased was Edward John Doherty of 82 Iveagh Street, Belfast.

(b) His date of birth was 24 February 1941 and he was born at Grove Street, Belfast.

(c) He was a builder's labourer.

- (d) Edward Doherty died on 10 August 1971 on the Whiterock Road as a result of injuries received from a gunshot wound to the torso.
- (e) The cause of his death was “bilateral haemothorax due to bullet wound of aorta” as a result of the gunshot wound to the torso.
- (f) His death was caused by injuries sustained when he was struck by a bullet fired by M3, a soldier in the Royal Engineers.
- (g) Soldier M3 fired the bullet from an elevated position on an Allis-Chalmers loading type vehicle that he was using to try to clear a barricade on the Whiterock Road - positioned on the Falls Road side near the entrance to Brittons Parade.
- (h) Edward Doherty was positioned behind the barricade, further up the Whiterock Road, probably on the pavement. He had been on his way home from visiting family in Norglen Parade when his way was blocked by the barricade.
- (i) The shooting took place around 5pm.
- (j) Edward Doherty was most likely on the other side of the barricade turning to look towards the barricade with his right shoulder in a position lower than his left side on to the barricade. His body was bent.
- (k) Edward Doherty was not acting in a manner that could reasonably be perceived as posing a threat of death or injury to M3. He was not a petrol bomber and he was not acting in any other way that would justify a violent attack on him.

- (l) There was a threat to M3 from a petrol bomber who had thrown a number of petrol bombs with the result that M3 was in fear for his life, sitting as he was in the Allis-Chalmers vehicle.
- (m) M3 was justified in taking action against the petrol bomber.
- (n) M3's use and firing of his weapon was not sufficiently or appropriately controlled or regulated for the following reasons:
 - (i) The weapon was a powerful Sterling submachine gun.
 - (ii) He did not risk assess the situation before opening fire.
 - (iii) He fired in a manner which was disproportionate and not in accordance with training.
 - (iv) He did not follow Yellow Card rules of engagement.
 - (v) He did not issue a warning.
- (o) There was a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.

Signed: Mrs Justice Keegan
Coroner

Date: 11 May 2021

ANNEX 3

INCIDENT 3: THE DEATH OF EDWARD DOHERTY

3.1 TBM Consultants Plan/Ordnance Survey Map 1965

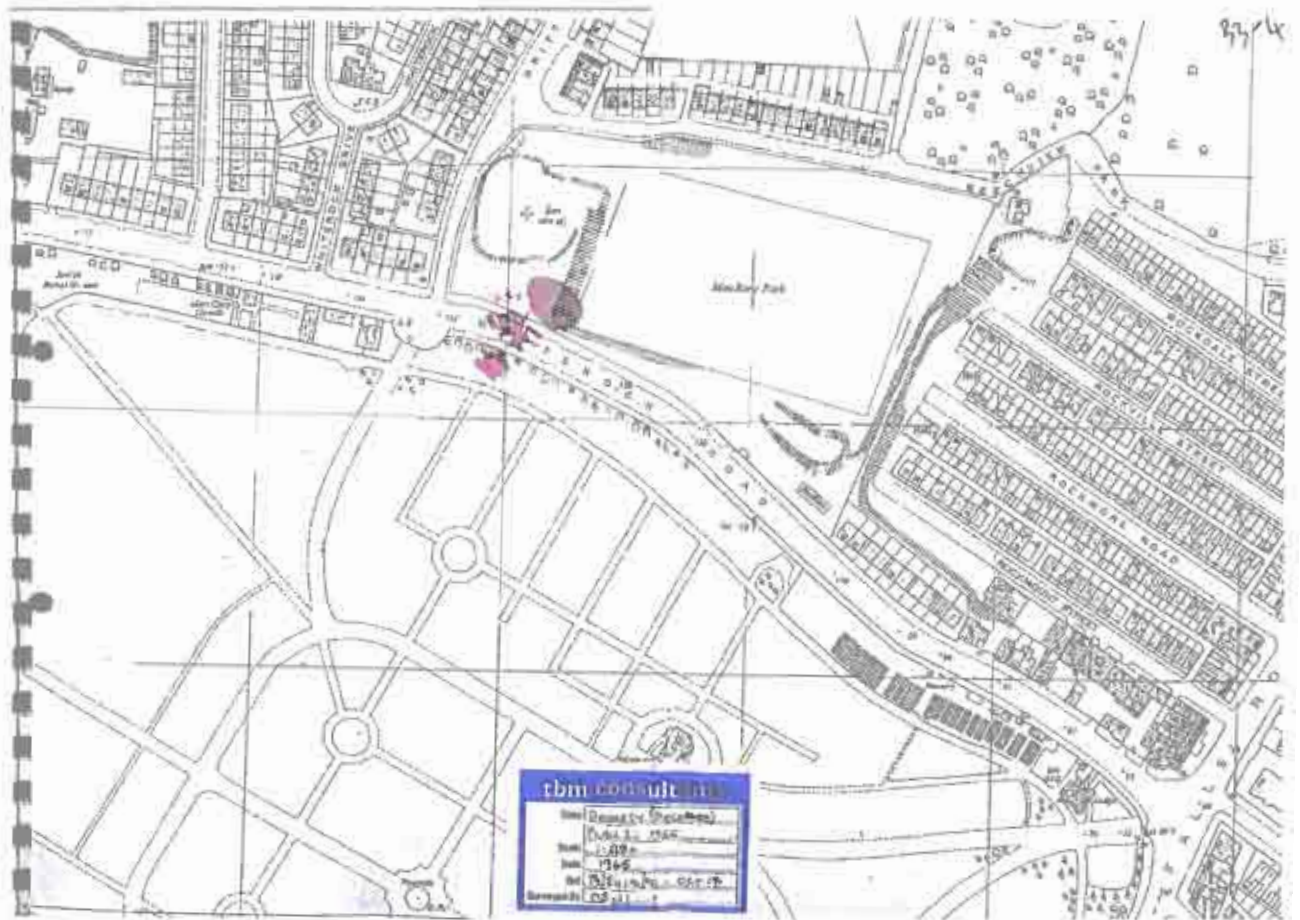
3.2 Photographs of Allis Chambers Tractor

3.3 TBM Photograph 21 (51 Whiterock Road)

3.4 TBM Photograph 29 (7 Whiterock Drive)

3.5 TBM Photographs 31 - 46 (the view from 51 Whiterock Road)

3.1 TBM Consultants Plan / Ordnance Survey Map 1965



3.2 Photographs of Allis Chambers Tractor



X



3.3 TBM Photograph 21 (51 Whiterock Road)



3.4 TBM Photograph 29 (7 Whiterock Drive)

29



3.5 TBM Photographs 31 - 46 (the view from 51 Whiterock Road)

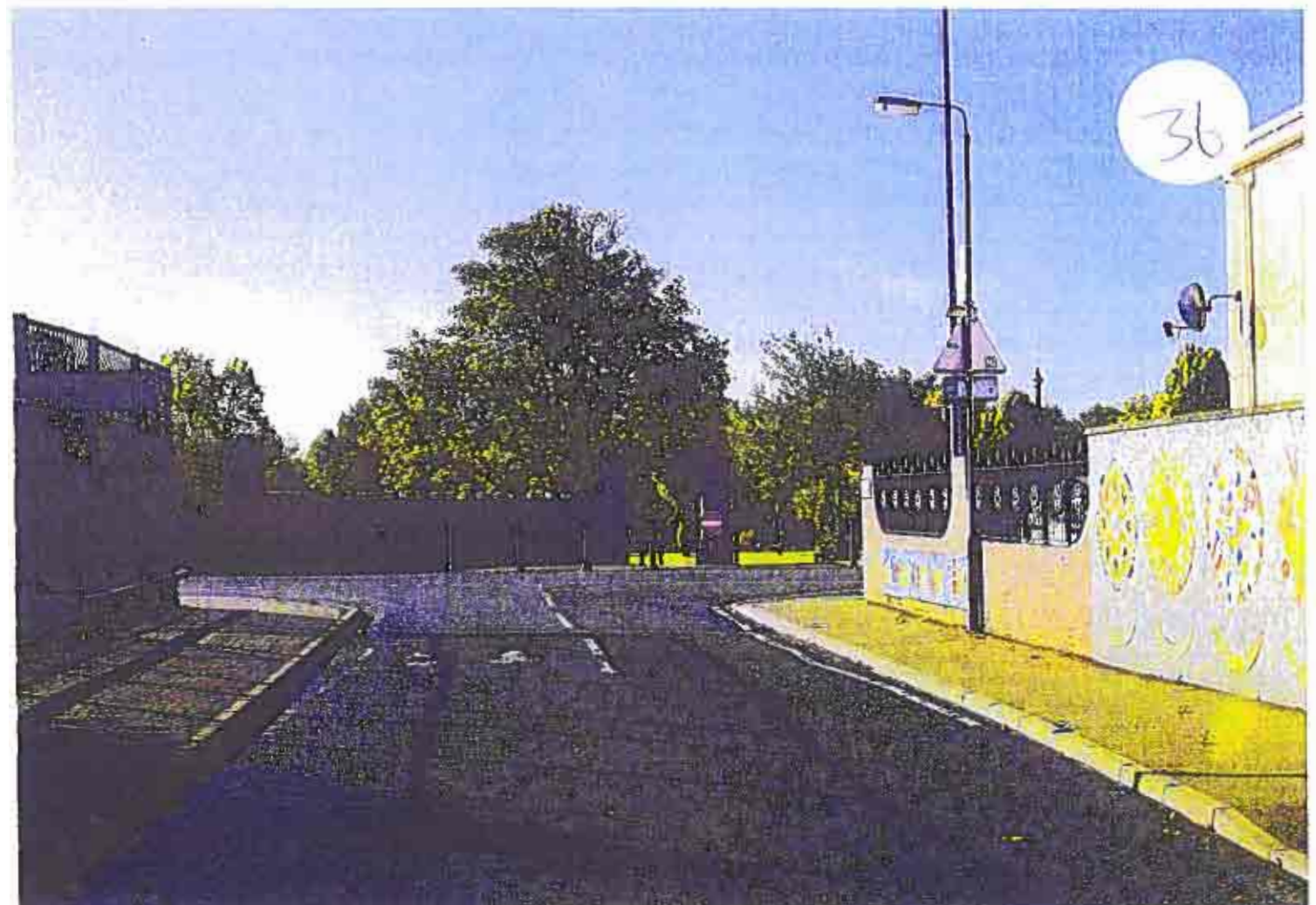


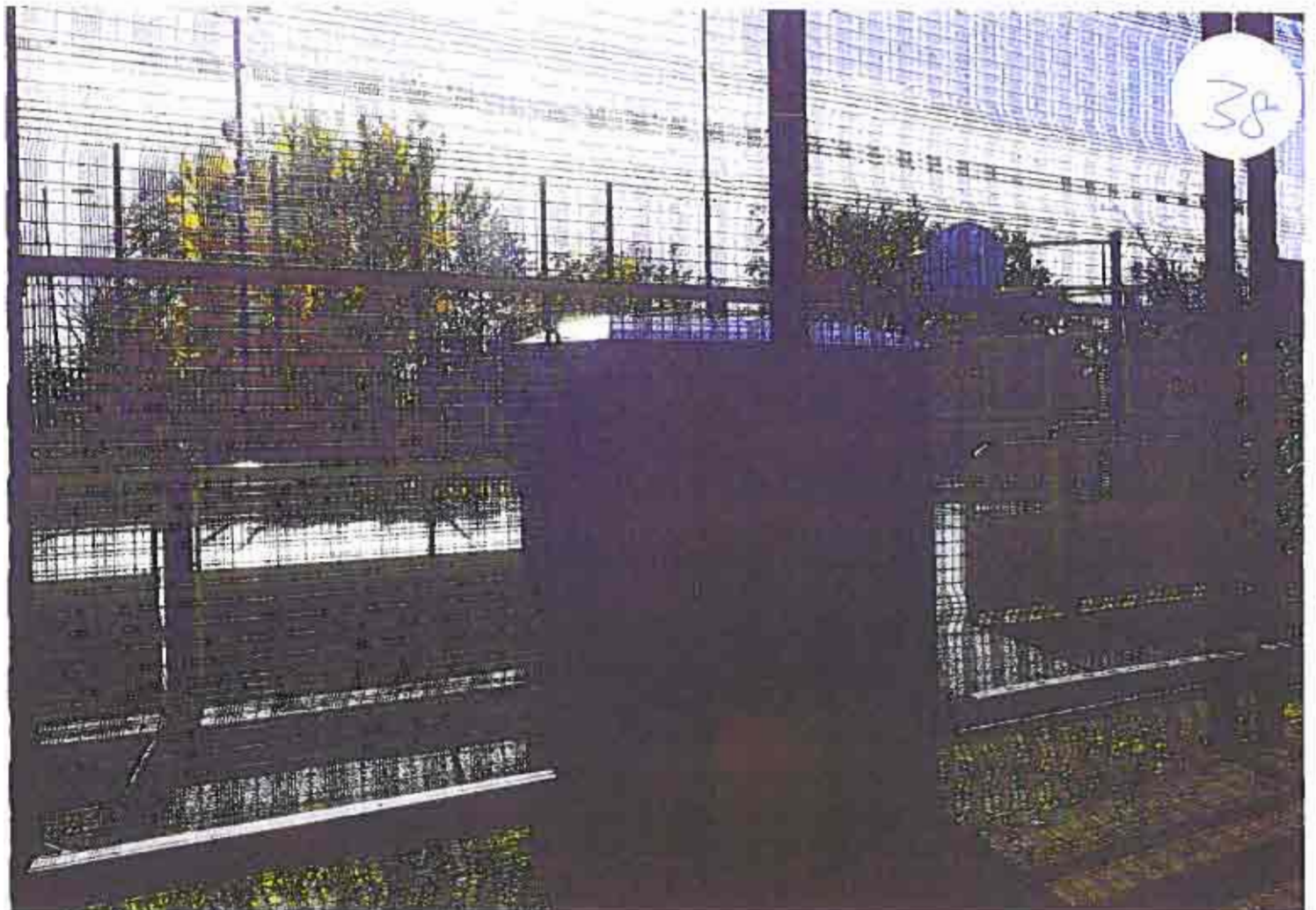
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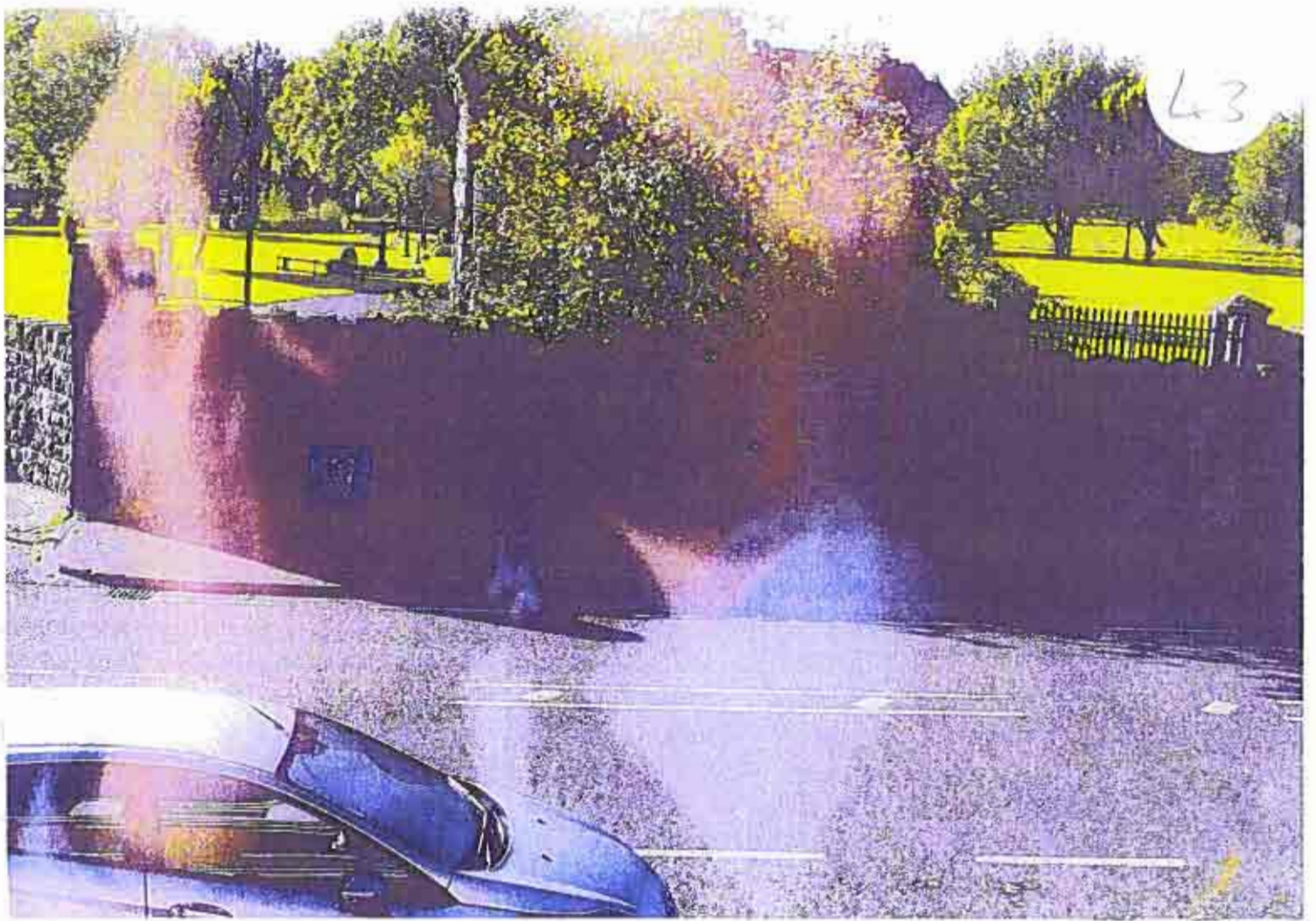
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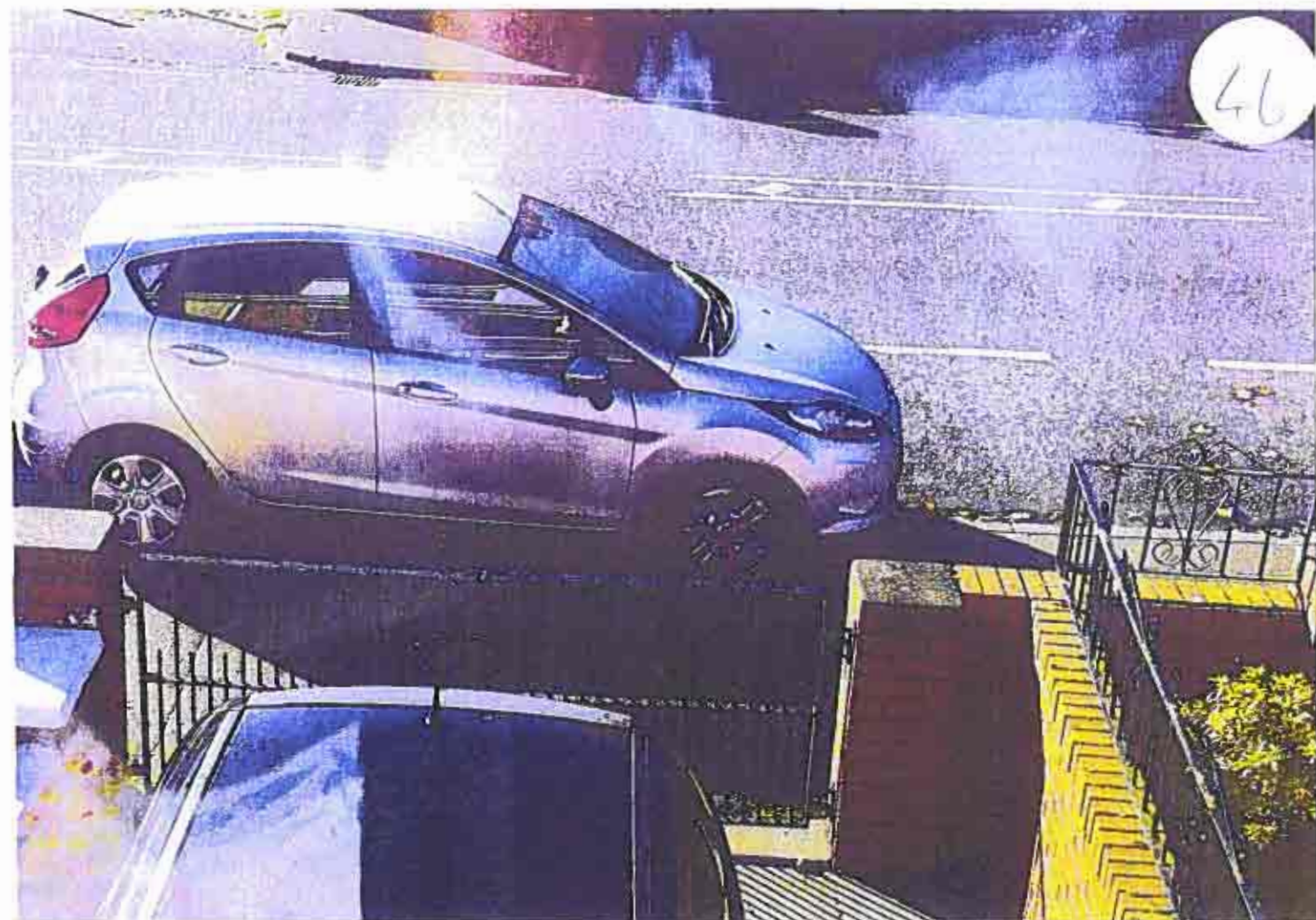
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3.1 TBM Consultants Plan / Ordnance Survey Map 1965



Neutral Citation No: [2021] NICoroner 6

Ref: KEE11473

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 11/05/2021

IN THE MATTER OF THE CORONERS ACT (NORTHERN IRELAND) 1959

**IN THE MATTER OF A SERIES OF DEATHS THAT OCCURRED IN
AUGUST 1971 AT BALLYMURPHY, WEST BELFAST**

INCIDENT 2

**THE DEATHS OF JOAN CONNOLLY, DANIEL TEGGART, NOEL PHILLIPS
AND JOSEPH MURPHY**

CORE ABBREVIATIONS IN THIS INQUEST:

DIFS:	Department of Industrial and Forensic Sciences
MoD:	Ministry of Defence
CIFEX:	Centre for Information on Firearms and Explosives
PSNI:	Police Service of Northern Ireland
FSNI:	Forensic Science Northern Ireland
SLR:	Self-Loading Rifle
UVF:	Ulster Volunteer Force
IRA:	Irish Republican Army
HET:	Historical Enquiries Team
CCRIO:	Central Criminal Records and Information Office
RMP:	Royal Military Police
SIB:	Special Investigation Branch
HTH:	Henry Taggart Hall
APC/Saracen:	Six-wheeled Armoured Personnel Carrier
NICRA:	Northern Ireland Civil Rights Association
CCDC:	Central Citizens' Defence Committee
NOK:	Next of Kin

VFS: Vere Foster School
RVH: Royal Victoria Hospital
SMG: Submachine Gun

Sections	Paragraphs
I. Introduction	[1]-[4]
II. Setting the scene	[5]-[16]
III. Personal details, pathology and ballistics	[17]-[54]
IV. Civilian Evidence	[55]-[104]
V. Military Evidence	[105]-[150]
VI. Additional Evidence	[151]-[180]
VII. Conclusions from the Evidence	[181]-[206]
VIII. Verdicts	[207]

I. INTRODUCTION

[1] This is an account of the evidence and my conclusions and verdict. I have considered all of the evidence heard in this case, which spanned over most of the length of this inquest series at various times. I have also considered all of the papers and the written submissions of counsel. This text does not recount each and every aspect of the voluminous material I have considered and so it should not be assumed that where some detail is not specifically mentioned I have not considered it. I have considered the totality of the evidence in reaching my findings.

[2] In the introductory chapter I set out the law governing inquests in Northern Ireland which I have applied. I have heard this inquest as a judge sitting as a coroner without a jury, with the agreement of all parties. I have kept in mind the investigative obligation imposed by Article 2 of the European Convention on Human Rights ("ECHR"). I have applied the balance of probabilities as the standard of proof. As I also said in the introductory section, the standard of proof is one thing but the state of cogency of the evidence is another as this case relates to events 50 years ago. The court is mindful that memory is affected by the passage of time and so accounts must be examined carefully before findings can be made. In accordance

with my obligations in law I have, upon assessing all of the evidence I have seen and heard, tried to reach a verdict on the core issues. Where I have not been able to reach a conclusion I have explained why.

[3] These four deaths occurred on 9 of August 1971 in an area of waste ground adjacent to Divismore Park, known as the Manse. Inquests were heard at the time which returned open verdicts. All four cases were referred by the Attorney General for a further inquest and by correspondence of 11 November 2011 these fresh inquests were directed. In this correspondence, which is similar in each case, the Attorney General said that:

“While it is clear that the circumstances existing in Belfast in 1971 imposed considerable difficulties upon the Royal Ulster Constabulary in the death of [each person], it is apparent that there was not an effective police investigation into those deaths. Apart from the statements taken from David Callaghan and Gerard Russell, the two men who were removed from the Manse by the army and taken back to the Henry Taggart Memorial Hall, there is little evidence that police made significant attempts to obtain eye witness accounts from civilian witnesses to the shootings. While it is noted that the Coroner had available to him a statement from Desmond Crone, it appears that Mr Crone came to the attention of the police as a result of his role in identifying the body of Joseph Murphy. It seems clear that a number of other potential eye witnesses were named in the statements provided to the Coroner yet statements were either not taken from these persons, or, if they were taken, they were not provided to the Coroner.

I note that at the time of this investigation, under the terms of an agreement between the Royal Ulster Constabulary and the Royal Military Police, the police did not have access to military witnesses and that therefore the investigation of the accounts of the military witnesses was effectively delegated to the RMP. This delegation of responsibility and the lack of rigour in investigations by the RMP have been the subject of judicial criticism, notably by Lord Kerr.”

[4] The Attorney General also said that it appeared a large number of military statements were placed before the inquests which were not subjected to any degree of scrutiny and were not counterbalanced by civilian accounts. He also pointed to discrepancies in the statements particularly as regards the death of Mrs Connolly.

II. SETTING THE SCENE

[5] These deaths occurred in an area of waste ground. A particular focus has also been the Henry Taggart Hall (“HTH”) (also referred to as “the Hall”) where the military were based on the day in question. This location has changed, however I have been able to consider the area in 1971 by utilising maps and photographs and with the assistance of Mr Brian Murphy, Consultant Engineer. The main report from Mr Murphy dealing with this incident is dated 30 January 2019. In that report Mr Murphy noted his engagement with Ordnance Survey NI and he said that of particular interest to this inquest is plan 129-165W (1971). A large number of plans have been provided along with photographs, which have been particularly helpful.

[6] The locus of this incident is an area known as the Manse, situated to the south of the Springfield Road, and the former location of the Henry Taggart Memorial Hall. A care home formerly known as Owenvale Court (renamed Glenalina Lodge) has been built partly over the footprint of the Henry Taggart. Substantial and

significant redevelopment has occurred to the north and rear of the Henry Taggart. To the south and front there has also been redevelopment but it is less extensive. Mr Murphy said that the main change is that the majority of the buildings known as Moyard Flats have been demolished. Plan C from the 1971 Ordnance Survey map has been most useful to me and I replicate it in **Annex 2.1** with permission to set the scene.

[7] It is important to note the changes as follows:

- In Moyard Park, the flats in blocks 1-21, 23-35, 37-47 and 38-50 have all been demolished. The area is now primarily a green space although a Community Centre has been built between the area of block 1-21 and 23-35. The curtilage of Glenalina Lodge occupies most of block 38-50.
- The maisonettes at 80 and 82 Moyard Park have been remodelled and renumbered as 88-90 Moyard Park.
- In Moyard Crescent and Moyard Parade most of the flats are now demolished.
- The Vere Foster School (“VFS”) has recently been demolished. There are features of this area which remain the same, as Mr Murphy said :
 - The Springfield Road which runs east/west remains the same.
 - The general area of Divismore Park and Glenalina Road remains the same both in road layout and house positions.
 - The road layout of Springhill Avenue remains the same.
 - The general area of Divismore Park and Glenalina Road remains the same both in road layout and house positions.
 - The road layout of Springhill Avenue remains the same.

- Springfield Park is broadly similar with the exception of Owenvale Mews.
- The green area between Ballymurphy or Divismore Park in the west to Springhill Avenue in the east is broadly the same with the exception of the encroachment of the redeveloped houses in Springmadden Court. The overall fall in the ground from the Springfield Road to the area of Springhill Drive/Westrock Road will be the same.

[8] Mr Murphy pointed out that Henry Taggart Hall is demolished, as is No. 692 Springfield Road.

[9] The central feature of this area in the past was that a river ran at the back of the houses at 4-40 Springfield Park, underneath the Springfield Road and continued from north to south to the east of Divismore Park and the west of Springhill Crescent. This river has been culverted.

[10] The original black and white photographs provide considerable assistance – particularly photograph 13 from film A which I reproduce in **Annex 2.2** with permission.

[11] On this photograph important landmarks can be seen:

- The gable of No. 2 Divismore Park and the block of houses in Divismore Park from Nos. 6-10.
- The entrance to the field at the Manse just forward of the white car travelling west on the Springfield Road.
- The gable of the house at No 692 Springfield Road.
- The houses in Springhill to the right of No 692 Springfield Road.
- A car can also be seen exiting Springfield Park.
- The Henry Taggart Memorial Hall.
- A sandbagged emplacement near to the footpath on the Springfield Road.

- Entrance gates near to the white estate car.

[12] Mr Murphy's report also referred to level differences between the Springfield Road and the Henry Taggart Hall and the Manse – which is on lower ground. He also referred to the houses at New Barnsley and Moyard being higher than the road. These differences can be seen on the photographs.

[13] Some other undated photographs are attached – one of a sandbagged emplacement (although the exact location could not be confirmed) inserted at **Annex 2.3**.

[14] There is also a contemporaneous photograph of the front of Henry Taggart Hall which has been of use – see **Annex 2.4**

[15] Finally, an aerial photograph of the Manse has been provided by the next of kin. Although the exact date is unknown this photograph has also assisted me in getting a sense of place – see **Annex 2.5**

[16] I have visited the scene and observed the topography around the Whiterock Road. However, the area has changed substantially and so this was of limited value.

III. PERSONAL DETAILS, PATHOLOGY AND BALLISTICS IN RELATION TO EACH OF THE DECEASED

Joan Connolly

[17] At the beginning of this inquest I heard personal details of the deceased from one of her daughters, Briege Voyle. This witness told me that the family lived at 91 Ballymurphy Road. Mrs Connolly was born in 1926, she married her husband Denis on 10 October 1946 and she had eight children. Mrs Connolly was a housewife who enjoyed bingo. I was told that Mrs Connolly welcomed the

deployment of British troops when that began as she saw them as a protection. She would be out providing them with tea and sandwiches. Her eldest daughter Denise married a soldier and a grandchild was born in 1971. Mrs Connolly had red hair; she was described as a housewife. She also got annoyed when soldiers abused people on the streets, she would have shouted back. I was told that she never thought the British Army would hurt her and that she lived for her children and that the family wanted to dispel the story that she was a gunwoman. Mrs Connolly was not associated with a paramilitary organisation. After her death her family were devastated and her children's lives disrupted by the separation that took place.

[18] The post mortem was conducted by Professor Marshall and took place on 11 August 1971 at 3:30pm. The report of Mr Beavis of the Department of Industrial and Forensic Sciences ("DIFS") referred to: lady's coat, blue cardigan, white slip, dress, bra, pants and sandals. The post mortem report recorded that she was wearing a black and white tweed overcoat, green woollen jumper and fawn coloured short sleeved dress.

[19] This report noted that Mrs Connolly was 50 years of age (actual age was 44) at the date of her death on 9 August 1971. The cause of death was described as bullet wounds of face and right thigh and the commentary given by Professor Marshall was as follows:

"This woman was healthy. There was no natural disease to cause or accelerate death.

Death was due to bullet wounds. There was a gaping ragged wound of the left side of the face, together with severe fractures of the facial bones consistent with the transit of one or more bullets of high velocity. There was also a perforating wound of the right thigh, with extensive laceration of the tissues on the inner side of the

thigh and severance of a medium sized artery. This, too, was consistent with the transit through the thigh of a high velocity bullet. Both the facial and thigh wounds would have been associated with severe shock and haemorrhage and it was their combined effect which caused her death.

Autopsy also revealed a bullet wound of the top of the left shoulder, from where a track led downwards and backwards into the body through the left shoulder blade. Behind the left shoulder blade a deformed copper-jacketed bullet was found. There was also a perforating wound of the back of the left hand consistent with the transit of a bullet. These wounds in the shoulder and hand were not serious, however, and they would not have played a part in her death.

The report of the Forensic Science Laboratory shows that at the time of her death there was some alcohol in the body but that amount was too small to have any significance.”

[20] In addition to this contemporaneous report, expert reports were also obtained from Dr Swift, Dr Cary and Professor Crane. A helpful process of discussion took place after which an agreed note was provided between the three experts and read into the evidence on 14 May 2019 as follows:

“Firstly, we each agree that Mrs Connolly died as a result of blood loss from gunshot wounds after a period of initial survival, likely to be measured in tens of minutes.

Secondly, we agree that she would have been able to mobilise to a degree, following receipt of the wounds and that she may have been capable of creating audible vocal sounds.

Thirdly, we each agree that the wound to the left side of Mrs Connolly's face was consistent with having been struck by a deformed high velocity bullet - possibly whilst in a head down position - which had then entered the left shoulder and from where it was recovered for examination.

We agree that a second bullet had entered her right thigh before exiting at the inner aspect, and possibly whilst standing. A bullet had entered between the knuckles of the left hand then exited at the back of the base of her thumb. We agree that this could represent a third bullet.

And, finally, there are no significant points of differences apparent within our opinion."

[21] In relation to Mrs Connolly two other issues arise. First a DIFS report from Mr Beavis, 2 March 1972, dealing with lead detected on the web of Joan Connolly's hand said that this "indicates exposure to the discharge of a weapon and might indicate that the deceased has fired a weapon although I feel that this is unlikely since the distribution was not entirely consistent with this." Mr Mastaglio also dealt with this issue in his report of 15 January 2019 and said mercury findings on the swabs were inconclusive and no characteristic CDR was found on the swabs and such material as found here might be explained by a non-firearm origin.

[22] Also, a report from a retired emergency surgeon, Mr Rocke, of May 2013 suggested that had Ms Connolly had rapid first aid, there was at least a possibility that she would have survived to get to the Royal Victoria Hospital (“RVH”) for more definitive treatment. Mr Rocke also suggested the thigh and face wounds were consistent with a high velocity bullet and the left shoulder and left hand low velocity.

[23] There were some questions notwithstanding the joint report which established the following. Pathology alone cannot determine where the deceased was or the order of shots. It was more likely that she was shot by three bullets. It was not possible to say if the hand injury was caused by a high velocity bullet or not. Nothing suggested she was shot at close range. Nothing in the pathology evidence suggested she was in possession of a gun when shot. She bled to death and while it was estimated that she would have survived for tens of minutes that might be extended if she was calling out for a period of time after her injuries. It was possible that with prompt medical treatment/blood replacement her outcome of survival could have improved.

[24] The ballistics evidence in relation to Mrs Connolly began with the forensic report from Mr Beavis I have already referred to. Clearly a bullet fragment was recovered. He said: “the bullet is the nose portion of a bullet of calibre 7.62 NATO, and is consistent with having been discharged from a military type rifle.”

[25] Ballistics experts were also engaged for the purpose of this inquest, namely Anne Polland, Jonathan Greer, Mark Mastaglio and Anne Kiernan. A joint note was provided as follows in relation to Mrs Connolly:

- “1. The wounds could have been caused with three or four fired bullets. It’s not possible to definitively determine the exact number.

2. The disruptive wound to the left side of the face may have been caused by a rifle bullet in yaw; a tangential strike or from the bullet fragmentary recovered from the shoulder, provided the latter had sufficient residual kinetic energy. A tangential strike is supported by the fact that there was no penetration or perforation of the skull noted.
3. This bullet fragment recovered from the left shoulder was the nose portion of a 7.62 by 51 millimetre calibre rifle bullet. It was identical to an L2 A2 military ball ammunition issued at that time.
4. The side of the nose of the bullet fragment was heavily scored with deep striations, indicating that it had struck a hard object or objects, possibly a metallic one, and had sheered away at the cannelure.
5. The entire base portion of the bullet was missing. This would have had the result of destabilising the fragmented bullet and of reducing its kinetic energy.
6. The rifling marks present on the fragment were of the same general class in terms of number, direction and dimensions as the rifling used in the L1 A1 SLR, which is a self-loading rifle. However, there are other 7.62 by 51 millimetre calibre rifles that have similar rifling characteristics.
7. FSNI, which is Forensic Science Northern Ireland, research has shown that the only 7.62 by 51

millimetre calibre rifles in use in Northern Ireland at that time with 6 right rifling were the self-loading rifle and the FAL type rifles, used by the British military. FSNI, again, myself and my colleague, Jonathan Greer, would contend that these rifles were also in possession of both republican and loyalist groups at that time.

8. Additionally, we cannot rule out the use of another unknown weapon with the same rifling characteristics.
9. The wounds to the right thigh had the appearance of having been caused by a destabilised rifle bullet, passing downwards and to the left.
10. The entry wound to the back of the left hand had been caused by a stabilised bullet. That is one that had not ricocheted from an intermediate object, and could have been caused by either a rifle or pistol calibre cartridge.
11. One can only assign with certainty the injury to the shoulder with the discharge of a 7.62 by 51 millimetre calibre rifle with L1 A1 SLR rifling characteristics. The injuries to the face, hand and thigh may have been caused by the same rifle, the same type or another type of rifle. Additionally, the injury to the hand may have been caused by pistol calibre ammunition.

12. There was no indication of any propellant or soot on the body, i.e., the face or left hand. This indicates that the shots were not discharged from a very close range.
13. It is not possible to determine if the decedent was stationary or moving when she was shot.
14. One cannot determine from solely the wound ballistics where the decedent was when she was shot, nor from what location she was shot from. Shots entering from two directions indicate that the deceased was shot from two directions, or that she turned between shots.
15. There are many orientations that the decedent could have been in order to receive the injuries to the right thigh, the left side or her face and neck, including standing with possibly the head tilted down, bent forwards, crouched or kneeling down, or lying prone. All depending on the elevation of the shooters.”

[26] Given the evidence given by Mr Greer, a request for clarification was made which resulted in an email from the Centre for Information on Firearms and Explosives (“CIFEX”), Police Service of Northern Ireland (“PSNI”) dated 21 May 2019 which stated that an operative had conducted a search to see if Self Loading Rifle (“SLR”) 7.62 NATO calibre rifles were available to Loyalist or Republican terrorists in August 1971. The result was that searches until the end of 1973 identified 29 recovered firearms with 9 attributed to Loyalists and 20 to Republicans. First recovery was on 13 October 1971. First recovery of a Loyalist attributed

weapon was 1 February 1973. Of the 21 weapons recovered, stolen dates were available for 14, of these 2 were recorded as stolen prior to August 1971. The conclusion was therefore: "I cannot establish when these firearms were acquired by either faction and therefore if they were in their possession in August 1971."

[27] This ballistics evidence in relation to Mrs Connolly will obviously have to be read in the light of all of the evidence and I will return to it in the conclusion section where I will comment further upon points raised in evidence.

Noel Phillips

[28] Two family members came to the witness box to provide a personal testimonial in relation to Mr Phillips. These were his brother and niece. They told me that Mr Phillips was one of eight children, born in 1951. He was a single man who worked as a window cleaner. He was also quiet by nature and was not a drinker. The family explained that Mr Phillips liked to dress well and was interested in sport. I was told that he went out like others for "a nosy" on the evening in question and so he ended up in the wrong place at the wrong time. The family members explained that a blackness descended over this family as a result of this death. After it, the family moved out of Ballymurphy. The family were critical of how they were treated by the military as they said soldiers laughed on the day of the funeral and they had difficulties when attending at Laganbank morgue. The family said their main aim was to have Mr Phillips declared an innocent man.

[29] The post mortem examination of Noel Phillips was carried out by Dr Derek Carson, the Deputy State Pathologist for Northern Ireland on 10 August 1971. Dr Carson concluded that Mr Phillips had been struck by at least three bullets and the bullet which struck the right side of the neck would have caused fairly rapid death as a result of bleeding to the right chest cavity. The cause of death was recorded as right haemothorax due to laceration of the right lung due to gunshot (9mm calibre) wound of neck and trunk.

[30] The post mortem notes injuries to the neck described as a circular hole, 8mm in diameter on the left side, centred 4cm behind and 8cm below the outer opening of the ear. Also, a circular hole, 6mm diameter on the right side, centred 3cm behind and 7cm below the outer opening of the ear. The left upper limb had an irregular hole 22mm x 16mm on the back of the upper arm centred 6cm below and 2½cm to the left of the point of the shoulder. Also, an abrasion, 15mm x 6mm horizontally across the ulnar border of the wrist; a circular hole 8mm diameter on the outer side of the thigh and an oval hole 13mm x 8mm on the inner buttock; and a shallow furrow 3cm long and 5mm wide on the medial part of the buttock.

[31] From the wound on the right side of the neck a track could be demonstrated passing behind the upper part of the rib cage before entering the chest cavity – tracking downwards and forwards 150 degrees to the vertical.

[32] A copper jacketed 9mm bullet was recovered under the skin of the abdomen. Dr Carson concluded that there were three bullets, one of which remained in the body. One entered the neck and passed downwards leaving the body on the back of the left arm/shoulder. A second entered the right side of the neck, passed downwards before ending in the abdominal wall. This bullet caused fairly rapid death in Dr Carson's view. The third bullet grazed the right wrist and passed right to left across the buttocks.

[33] In relation to pathology evidence, reports were obtained from Dr Swift, Professor Crane and Professor Cary. A joint meeting took place on 14 May 2019 and following from that a joint agreed statement was read into evidence by Dr Swift as follows:

“We each agree that Mr Phillips died as a result of a gunshot wound to the neck and trunk. After a possible period of initial consciousness, his condition would have

rapidly deteriorated with death likely ensuing within minutes.

We each agree that the gunshot wounds to either side of the neck did not occur whilst he was standing upright, and potentially instead whilst lying on the ground.

We agree that a third gunshot wound to the outer right thigh may have occurred from a different relative shooting position.

We agree there were no shotgun related wounds to Mr Phillips.

We believe there are no significant points of difference within our opinions.”

[34] There were swabs taken from Mr Phillips’ hands which showed no evidence of lead deposits.

[35] The witnesses agreed that pathology alone could not determine the order of shots or the position of the deceased. In answer to my questions, Dr Swift gave helpful evidence that a normal stable bullet in flight will enter the skin nose-on and produce an entrance wound. If a bullet or projectile has struck something beforehand, it may become deformed, the flight pattern is less stable and a different wound pattern is found. Dr Swift confirmed that due to the amount of energy generated, a high velocity bullet creates more damage internally, leaves a larger exit wound and damages bone before exiting. In relation to close range shots, Dr Swift said that was up to a metre in pathological terms.

[36] The joint ballistic note relating to Mr Phillips stated as follows (I will return to discuss this evidence in the conclusions section):

- “1. Dr Carson describes wounds were caused by three or four bullets.
2. A stable 9mm.P calibre bullet entered the RHS of the neck; this bullet was recovered from the upper stomach wall, the bullet having passed downwards through the body.
3. A stable bullet entered the LHS of the neck and exited the left upper arm, clearly with the bullet having travelled downwards and to the left.
4. A stable bullet entered the outer, upper right thigh, exited the right buttock and passed across the left buttock leaving a shallow laceration across this buttock.
5. A horizontal abrasion was present on the right wrist which was in line with the outer side of the injury to the right thigh; this may have been caused by the same bullet which entered the thigh or possibly the RHS of the neck if the arm was raised or by a different bullet.
6. The bullet recovered from the stomach wall was previously described as a 9mm.P calibre (9 x 19mm) full metal jacketed bullet with 2Z profile which was

rifled 6R. (This bullet is no longer available for examination).

7. 9mm.P bullets with 6R rifling characteristics are common to many handguns and sub-machine guns. 2Z profile is consistent with military ammunition in use at that time.
8. It maybe that this type of ammunition was available to paramilitary groups at the time.
9. One can only assign with certainty the injury to the RHS of the neck with the discharge of a 9mm.P calibre handgun or sub-machine gun with 6R rifling.
10. It is likely due to their position and possible similar trajectories that both bullets entering the left and right sides of the neck were fired in rapid succession, either in semi-automatic or fully automatic mode (pistol and/or sub-machine gun), and that the deceased was stooped, crouched or lying down.
11. There was no evidence to suggest from the wound ballistics that these shots were discharged from very close range. We do not know if the clothing had been examined for close range effects.
12. It is not possible to determine if the deceased was stationary or moving when he was shot.

13. It is not possible to determine solely from the wound ballistics where the deceased was when he was shot or from what location(s) he was shot from.
14. The proximity of the entry holes does not assist in determining the position of the shooter(s). 9mm P calibre bullets fired from close range and/or many tens of metres away as a result of competently aimed shots or two rapid un-aimed shots from much further away could have resulted in the same wound tracks. It is not possible to assess which of these possibilities is more likely than the other.
15. Shots entering from two directions (neck and buttock wounds) indicate that the deceased was shot from two directions or that he or the shooter(s) moved between shots."

Daniel Teggart

[37] I heard evidence from Mr Teggart's daughter, Alice Harper, who told me that he was born in 1926 and had married her mother Belle on 17 January 1946. He was a labourer and he had 10 children. The family lived at 29 Westrock Drive, Belfast but they said that they only had a little over a year in that house before Mr Teggart was killed. He was a rag and bone man. Money was tight but family life was happy. The family spoke about the night in question being bright. They spoke negatively about soldiers in the area who sang "where's your papa gone" when they enquired about him. The family explained the profound effect of this death on Mrs Teggart and the children of the family who were split up into different locations after their father's death. In conclusion, the family said that their good name had been taken and blackened and that they wanted Mr Teggart's name cleared.

[38] A post mortem examination of the body was conducted by Professor Marshall, the State Pathologist for Northern Ireland, on 12 August 1971. There were numerous “penetrating wounds” noted on the body of Mr Teggart as follows:

- (i) A penetrating wound on the top of the right shoulder with a track extending into the right upper arm (where the upper arm bone was fractured) and exiting from a wound on the back of the upper arm at the level of armpit.
- (ii) A penetrating wound on the back of the right shoulder. A track from this wound extended outwards and downwards to an exit wound on the outer side of the right upper arm midway between the shoulder and the elbow.
- (iii) A penetrating wound on the right side of the back below the shoulder blade. A track from the wound extended vertically beneath the skin to a laceration on the back of the chest near the medial border of the shoulder blade.
- (iv) A penetrating wound on the back of the right forearm near the wrist. A track from this wound extended upwards and forwards through the forearm muscles to a ragged laceration of the upper part of the right forearm near the elbow.
- (v) A penetrating wound on the back of the left hip overlying the pelvis. A track from this wound extended downwards and to the right to a ragged laceration on the left buttock.
- (vi) Five penetrating wounds on the front of the left thigh. Within the tracks of these wounds were two deformed pieces of lead.

- (vii) A penetrating wound, 8mm in diameter on the inner side of the right thigh. A track from this wound extended backwards to communicate with a ragged laceration on the back of the thigh below the buttock.
- (viii) Three penetrating wounds to the inner side of the right thigh.”

[39] Professor Marshall said these were not all caused at the same time and that Mr Teggart may have lain in the area subject to crossfire. Professor Marshall concluded that the five penetrating wounds to the front of the left thigh and two to the front of the right thigh could have been caused by fragmented bullets after impact with the ground. The lacerations to the right calf and forearm could have been caused by glancing bullets. Two deformed pieces of lead were recovered from the left thigh.

[40] Similar to the other cases, a joint statement was prepared and read in evidence on 14 May 2019 representing the views of Dr Swift, Professor Crane and Professor Cary. In relation to Mr Teggart, the expert view was:

“We each agree that Mr Teggart died as a result of high velocity gunshot wounds to the trunk and limbs, after a period of initial survival and during which he would have been conscious.

We each agree that the variation in internal wound track directions could be explained by either movement of Mr Teggart or being struck from more than one firing position. It is possible the wounds were received whilst bending/kneeling or lying on the ground.

We agree that the wounds to the left thigh were caused by a fragmented bullet(s) having struck an intermediary object(s).

We believe there are no significant points of difference within our opinions.”

[41] In answer to questions, Dr Swift confirmed that there was no evidence of maltreatment of the body. He explained a lack of precision about the number of bullets because of likely fragmentation. There was no evidence of lead on the body. There was however an issue about .22 ammunition being found in trousers attributed to Mr Teggart by Soldier N. I will assess this in due course.

[42] The ballistics evidence was also given in an agreed note. This I set out as follows:

- “1. Dr Marshall had documented 19 areas of gunshot injuries that tallied with the numbering nomenclature visible on the PM photographs.
2. From the descriptions provided by Dr Marshall and without probes highlighting the wound tracks it is not possible to determine the precise number of bullets that the decedent was struck by.
3. It is likely that he was struck by at least eight bullets possibly eleven.
4. The decedent had been struck by bullets hitting his right shoulder, right side of the back, inner aspect of the right thigh, back of the left hip, the back of the right forearm, right shoulder and hip.

5. Due to the size of some of the presumed entry wounds it is possible that some of the bullets struck the decedent after having ricocheted from intermediary object(s) that destabilised the bullets. Some may simply have struck whilst they were in a state of yaw or have hit the body tangentially.
6. The numerous penetrating missile wounds to the inner thighs had most likely been caused by bullet(s) which had fragmented due to hitting a hard surface(s) prior to causing the injuries.
7. The disruptive injuries to tissue and bones depicted and described, together with large exit wounds, were consistent with rifle calibre ammunition, however it is not possible to totally exclude low-velocity pistol calibre ammunition also having been used.
8. No bullets were recovered it is therefore not possible to assign calibre(s) to the wounds save that they could have been caused by 0.30" nominal calibre bullets (this includes 7.62 x 51mm).
9. There was no indication of any propellant or soot on the body - if this was the case then the shots were not discharged from very close range. We do not know if the clothing had been examined for close range effects.

10. There are many orientations that the decedent could have been in order to receive the injuries. The downwards paths of the bullet or bullets that entered the right shoulder would indicate that he was bent over or lying down, facing the shooter(s), when he was hit by the shot or shots, although this would depend on the elevation of the shooter(s). However, the wound track of the bullet that struck him in the right side of the back was directed upwards which indicated that he changed his position or that he was shot from multiple positions, or a combination of both.
11. The fragmentation injuries to the decedent's thighs were indicative of these limbs being adjacent to the surface(s) from which the bullet(s) had struck and subsequently fragmented from.
12. The decedent has wounds to his left side and inner right thigh, which appear to have been caused by stable bullets, one possibility is that he was upright when struck by these bullets, with his left side exposed to the shooter.
13. The one or two bullets that entered the right shoulder then exited the right arm with a downwards wound track would preclude the arm being raised.

14. The order in which the bullets struck the decedent cannot be determined from solely the wound ballistics.
15. It is not possible to determine from the wound ballistics the location(s) from where the shots were discharged.
16. The decedent was either hit by shots entering from different directions and/or he moved position/orientation whilst being shot.
17. The direction of the implied wound tracks through the decedent was not in keeping with someone standing directly over him and discharging a rifle(s) if the former was lying face down on the ground, however it cannot be ruled out that some shots were discharged with rifle(s) at an angle to the body with shooter displaced to one side with the bullets striking at an angle and/or in yaw."

[43] I will consider all of this evidence in the round and I will comment on this and any other matters that emerged in the evidence that I have found significant when I reach my conclusion.

Joseph Murphy

[44] I heard from Mr Murphy's daughter Janet Donnelly who was accompanied by a niece of the deceased. The family described a happy life. They told me that Mr Murphy worked on bin lorries and then as a rag and bone man. He was described as a character. The family were delighted to obtain a house in

Ballymurphy in 1966/1967 as this was sought-after housing. Ms Donnelly remembered the funeral, standing in a black dress in the garden. Soldiers were singing "where's your papa gone" she said. The family explained the trauma of this death, particularly for Mr Murphy's widow who went into shock. The body was exhumed in 2014, which was also very hard, and Mrs Murphy died in 2016 on her husband's anniversary. The family said that they wanted the truth established that the British Army killed Mr Murphy.

[45] The post mortem was carried out by Dr Press who recorded that this was the body of a middle aged man, of average build and weighing ten and a half stone and 64 inches in height. Rigor mortis was present. Hypostasis of purple colour stained the back. Dr Press also noted purplish discolouration of the skin over most of the lower half and also over the lower back. Dr Press reported on a guillotine amputation of the right leg. He also referred to bruising on the left lower limb and around the scrotum. Having performed microscopy Dr Press reported that the kidneys were partially autolysed and so it was not possible to form an opinion as to their state prior to death.

[46] Dr Press gave the following opinion:

"The man appeared to be healthy.

Death was due to a gunshot wound of the right thigh. This had caused severe haemorrhage and had allowed infection to enter the body. The infection gradually spread despite treatment which included the amputation of most of the right leg and gave rise to septicaemia, infection of the bloodstream. This, together with the haemorrhage, caused degenerative changes in the kidneys resulting in kidney failure. The septicaemia also caused bronchopneumonia, an acute inflammatory condition of

the lungs and air passages. The combined effect of these conditions eventually precipitated his death about thirteen days after he was wounded.

The part of the right leg, bearing the wound, had been removed so it is not possible to give any indication as to the range, velocity or direction of the bullet.

A bruise on the inner side of the left thigh and an abrasion on the left shin may have been sustained at the time he was wounded. They were of trivial nature and played no part in the death.”

[47] A joint meeting took place between Dr Swift and Professor Crane on 14 May 2019 as a result of which agreement was reached as follows:

- “(i) We agree that Mr Murphy received a single high velocity gunshot wound to the right thigh, resulting in fragmentation of the femur (thigh bone) as well as the bullet itself creating a complex exit wound and a bullet fragment later recovered in front of the pelvis.
- (ii) We agree that there was no evidence of further gunshot wounds having been received.
- (iii) We agree that there was no evidence of a strike by a rubber bullet or plastic baton round, and that there was no evidence to support the allegation that Mr Murphy had been beaten or kicked.”

[48] The next of kin of Mr Murphy obtained a report from Dr Damian Fogarty, Consultant Nephrologist and the experts commented upon this following a joint meeting that they had on 16 May 2019. From that they made the following comments:

- “(i) We agree with Dr Fogarty that Mr Murphy developed acute kidney injury (AKI) and that this was a factor in his death. There were a number of reasons as to why renal failure would have developed, including initial blood loss, muscle trauma (as a result of the passage of a high velocity bullet), resulting limb ischaemia (due to blood vessel damage) and the subsequent development of infection. Immobilisation may also play a role.

- (ii) It was noted that there was purple discoloration of the skin over most of the lower abdomen, lower back and buttocks. This was not described by the original pathologist who carried out the post mortem examination. However, he did note that the superficial epithelium of the skin (outer skin layer) was detaching over most of the right half of the abdomen. It is our opinion that these changes may describe the effects of septicaemia and ischaemia.

- (iii) We agree that, had there been bruising on the abdomen as a result of additional injuries sustained on 9 August 1971, this would have shown alteration in the colouration or fading by the time of the post mortem examination.

- (iv) The development of septicaemia and renal failure in this case are entirely explicable by the effects and complications of a single high velocity shot to the leg.”

[49] Dr Swift, in answering questions, was clear that there was no pathology to suggest more than one bullet.

[50] There was contemporaneous evidence from Mr Gurd who admitted him to the RVH on 9 August 1971 at 11:15pm.

[51] The body of Mr Murphy was exhumed in 2015 upon application to the coroner and I received several reports relating to the exhumation. A 7.62 bullet fragment was found as a result of this exhumation.

[52] An agreed ballistics note was filed which contained the following conclusions:

- (a) Only the descriptions of the Pathologist, Dr Press, and the Clinician, Dr Gurd, were available with reference to establishing the wound ballistics.
- (b) Following exhumation/post mortem a bullet fragment was recovered from the groin area of the deceased. This was identified as the base/tail portion of the 0.3” normal calibre boat tailed rifle bullet (this includes 7.62 x 51mm).
- (c) The rifling marks present on the fragment were of the same general class (in number, direction and dimensions) as the rifling used in L1a1 SLR. However, there are other 7.62 x 51mm calibre rifles that have similar rifling characteristics.

- (d) FSNI research has shown that the only known 7.62 x 51mm calibre rifles in use in Northern Ireland at that time with 6R rifling were the SLR and FAI type rifles used by the British military. FSNI (AIP and JG) contend that these rifles were also in the possession of both republican and loyalist groups.
- (e) Additionally, we cannot rule out the use of another unknown weapon with the same rifling characteristics.
- (f) The limited material available to us supports the proposition that the decedent received a single 0.30" normal calibre rifle bullet shot to the upper right thigh.
- (g) We have seen no evidence to suggest the decedent was shot twice in the same area of the thigh.
- (h) It is not possible to determine solely from the wound ballistics where the deceased was when he was shot or from what location he was shot from.
- (i) It is not possible to determine if the deceased was stationery or moving when he was shot.
- (j) There is no evidence to indicate range of fire."

[53] Some oral evidence was required particularly because of the strongly held views of the next of kin as to what happened to Mr Murphy. Ms Polland gave evidence and when questioned she confirmed that there was no evidence to suggest that there was a rubber baton round or bullet fired into the original wound. Also, the next of kin instructed a Mr Doyle as ballistics expert and while he did not attend court, two core points were raised with Ms Polland when she was called to give evidence on 15 May 2019. First, Mr Doyle suggested that the JR2 could not with certainty be said to be a boat tail due to deformation. Ms Polland pointed out that

Mr Doyle had not examined JR2 like the other experts who upon examination concluded it was a boat tail. If a boat tail, it was said in evidence, it will have exited the body. A further point from Mr Doyle was that because of the lack of detail in the wound descriptions there could have been a second bullet. Ms Polland said there was no evidence to support that.

[54] The next of kin also relied on the original examination and the description of hypostasis to support a claim of bruising which was caused by beating. This was not supported by the other reports.

IV. CIVILIAN EVIDENCE

[55] I now turn to the civilian evidence, some of which was read in and some of which was given by witnesses who attended. I will deal with the oral evidence first, given that it was subject to examination.

[56] Two witnesses gave direct evidence of their recall of these events from a position close to the field as they were inside their home at 692 Springfield Road. This is obviously an important location, overlooking the Manse where the deceased were shot. Margaret Elmore and Agnes Keenan were sisters living in that house (with the white gable) and they told me they were looking out over the field that evening and that they witnessed certain events. Neither woman made a statement at the time.

[57] Margaret Elmore said that she thought she made a statement on the Whiterock Road in the 1980s. That could not be found. However she was interviewed by Laura McMahon (there is no transcript of that interview) and more recently made a statement to CSNI of 1 February 2019. She gave evidence on 5 March 2019. She said she was at home on the night in question with her sister and her sister-in-law who had children with her. She said after 8:00pm, when the children were in bed, they were at the back of the house when she became aware of a

crowd of about 10-15 persons gathered outside her gate. She spoke to them about being at Springfield Park trying to help residents. She said a woman she later identified as Mrs Connolly was in the crowd, wearing a coat, holding a stick about a metre and a half long. She said she did not see soldiers. Just as she was about to go in she said she heard a single shot, the gates of the Henry Taggart Hall opened, two armoured cars came out and more repetitive gunfire started which caused people to dive for cover and go into the Manse.

[58] The witness said she saw bullet holes in the side of the house. She went inside and said she went into her mother's bedroom which overlooked the Manse. It was bright she said with no obstructions and just below the window was rubble and two people, a man and a woman, were hunched over with their backs to her. They were behind a bush. She said they didn't have anything in their hands. Mrs Connolly began to get up. The witness said she thumped the window to tell her to stay down and she heard the man say "for God's sake, get down". She didn't see the shot but she saw Mrs Connolly turn and then say "Mr I can't see." The witness said she could clearly see half her head was shot off. Shots came close to the window so she moved away. Other than that, Mrs Elmore told me that a young man about 25 years old came in later asking to stay in the house.

[59] Mrs Elmore when questioned about where the gunfire was coming from said the Army and in particular from the Henry Taggart Hall because "the bullets were thudding into this wall" across the field from the Hall. Mrs Elmore marked an exhibit B2/09 (Film A Photo 19) to show the window from which she observed Mrs Connolly and the area where she spoke to the people earlier. This is at **Annex 2.6**.

[60] Agnes Keenan, Mrs Elmore's sister, also gave evidence to me on 4 April 2019. She had the transcripts of interviews with Frank Martin in 2012 and Laura McMahon in 2009 read to her. She also remembered Joan Connolly because she said she was "agitating" (a word she later changed to "agitated").

[61] She said Mrs Connolly had a stick in her hand and was waving it in the crowd which was really boys and young men. She also said she saw the soldiers came flying down the road and then the crowd dispersed. She was not clear about the start of shooting and she could not say where it came from but she did say she heard “an awful lot of shots hitting the gable wall.”

[62] Mrs Keenan did not see the woman as her sister had. She also remembered a journalist who called out to the house pointing out all of the bullets on the gable, but a record of this could not be found. She said she saw the body being moved by soldiers around 2am.

[63] Both of these women were highly impressive witnesses who were visibly upset when recounting events. I rely on their evidence in some respects in my conclusion for a number of reasons. Primarily, I think they were well placed to see what was happening out of the window. It makes absolute sense that if there were bullet holes on their gable wall the shots were coming from the Henry Taggart Hall. I accept this. I also accept the evidence that Mrs Connolly was part of a crowd, gathered on the streets in some form of protest but that she was not carrying a gun. She may have been carrying a stick at certain times but not a weapon.

[64] Two brothers also gave evidence to me, namely Edward and Martin Butler. They were 11 and 9 years old at the time of events. They made statements to CSNI in 2018 but in 1999 they were also jointly interviewed by Mr Mahon and I was referred to substantial parts of that. Unsurprisingly, there are a number of inconsistencies. There is also an account given to Laura McMahon in 2009. The brothers were clearly in the Manse when events were unfolding because Edward Butler was actually shot himself in the right hip. I asked Edward Butler whether he was doing anything suspicious and he said no, he was out earlier watching the rioting and got caught up in the shooting. The boys were over at the pillars it seemed, started to walk home across the field and about halfway over

shooting started which they both said was from the direction of the Henry Taggart Hall. I heard that Martin Butler had also sustained a graze to his hand. All of this evidence I can accept. Where the evidence became more questionable was in relation to direct observation of events. There are limits to what I can rely on. Specifically, in his oral evidence Edward Butler said that he saw a soldier lift a young man of about 18 or 20 years, from the tree line, carry him to the Saracen, then drop him and shoot him towards the chest one or two times. This was not mentioned in his first account to Mr Mahon in 1999. Also, Martin Butler referred in evidence to seeing a man running in an eastern direction, shot, going up in the air and clasp his left- hand side. This was not mentioned in previous accounts. There is an account from 1999 which comes from the joint interview which refers to shots being fired from a Saracen, through a hatch. That account is too confused when tested through the oral evidence and so I cannot take it as accurate enough. Both brothers overall were trying to be helpful. They were very young at the time, and they clearly witnessed a significant event and one was badly injured. They were in the field clearly and on their evidence they were clearly affected by what they saw but I cannot be sure their recollections are reliable. Other than that, I will assess who shot at them when looking at the overall picture.

[65] I will now deal with other civilian witnesses who were called. First, John Maguire. He provided a statement to CSNI of 30 May 2018. He also provided a verbatim interview in 2009 to Laura McMahon and Paul Mahon and he was interviewed by a Mr Meehan in 2012, the written statement of that I have also considered. Mr Maguire said he was there on the day in question and that he saw some of the events which happened at the Manse. Specifically, he said he was with a group of men who took cover at the pillars in the Manse when shooting started from Henry Taggart Hall. He said he was 37 at the time and lived at Whitecliff Crescent. He was on the street and saw young people throwing bottles on Springfield Road. He turned back from where they were and recalled talking to David Callaghan, Dessie Crone and Daniel Teggart. They took cover he said at the pillars but Daniel Teggart tried to run across the field and was shot. He said this was clearly shooting

from the Hall and Mr Teggart was unarmed. This witness also said he could hear Mrs Connolly saying "I can't see." He said a Saracen came into the field and a soldier got out of the passenger side with a short arm and started shooting. He said he had a red beret on. He started running away after this with another man into a house where there were two women and an elderly man, having gone through a hedge. This witness disputed the narrative put by the Ministry of Defence ("MoD") that the Army were firing back. He also disputed that firing was coming from Springmartin despite referring to this potential when spoken to by Mr Mahon.

[66] When Mr Maguire gave evidence to me he did so as an 84- year- old who appeared frail and it is right to say that he was not entirely clear of his position or the position of others at the pillars or Mrs Connolly. I bear in mind that he did not give a contemporaneous account and so details are bound to vary. What I take from his evidence is this: he was there and he saw Daniel Teggart being shot as he ran out. I accept his evidence on that. I am not convinced I can rely on the account regarding Noel Phillips or Mrs Connolly or the Saracen soldier coming into the field as that evidence was not so clear. I will come back to the overall issue of the direction of fire in the concluding section as this issue requires assessment of all evidence.

[67] Thomas Morgan also did not make a statement at the time. He was interviewed by Paul Mahon and Laura McMahan. He was only 15 years of age when he was caught up with events in the field. He frankly accepted in his interview that he was outside on the streets throwing stones at Henry Taggart Hall with Fra Notarantonio among others. He also said that Loyalists in Springmartin were shooting at the crowd in Springfield Park and towards the Manse field. This account, particularly that given to Laura McMahan in 2009, subsequently changed to include shooting from the Henry Taggart Hall. Two other strands of this evidence are important. First, he said consistently he saw two Army vehicles entering the field, but he did not see any shots being fired from them. Second, he clearly identified an Irish Republican Army ("IRA") gunman in the area from a laneway at

the rear of the McStravicks' house. He was with others and recalls Dessie Crone saying "we are your own" for fear they would be shot by the gunman who was in a firing position with a long arm weapon. He was clearly afraid and was carried out of the field by Dessie Crone and Dan Delaney. He was also with Noel Phillips he said. The witness said he could not say the exact position of shots but that "there was talk of Loyalists." He said none of the deceased had guns and that Daniel Teggart and Noel Phillips were shot when running.

[68] Elizabeth Donnelly provided a statement to CSNI dated 29 May 2018. She had previously provided a statement of 8 December 2012 to solicitors. She gave oral evidence to me and said she was 19 years old at the time, lived at 24 Ballymurphy Road and she was a volunteer with the Order of Malta. It is really from that perspective that I will take her evidence into account in relation to the First Aid provided to Eddie Butler at the McStravicks' house. Mrs Donnelly explained that she treated him, which I accept as he was seriously wounded on his right hip where a bullet had entered and exited. This is not really controversial evidence at all. However, Mrs Donnelly also said that while treating Eddie Butler he was conscious and he repeatedly said "she was crying for help and they shot her in the face," referring to Mrs Connolly. The witness was questioned at length about this and she maintained her position on this. Mrs Donnelly presented very well as a witness and I accept that what she said to me about this was right in broad terms, in other words Eddie Butler was saying something to this effect about the woman in the field getting shot in the face. This ties in with what happened and the injuries sustained by Mrs Connolly.

[69] Mrs Anna Breen gave oral evidence to me. She made a statement to CSNI dated 12 September 2018 and a previous statement on 31 October 1999. Mrs Breen did not give direct evidence about events in the Manse but she did see a number of the deceased in advance. In particular, she was with Mrs Connolly before she was killed as they were going to look for their children, some of whom had been helping Fr Mullan. She said she could see what looked like a riot at Henry Taggart Hall.

Mrs Breen said Mrs Connolly was not carrying anything that day. She recounted a story about a soldier she referred to as “Jim Figgerty”, which was a nickname from a Fig Rolls advert, tapping a rifle at them saying “this is for you and you.” Mrs Breen gave evidence about Mrs Connolly, in general that she welcomed the soldiers when they first came to the area but that changed. She also recounted soldiers taunting the Connolly family after their mother’s death, singing “where’s your mother gone” in tune to a song popular at the time. There was, in my view, an air of authenticity to this part of the evidence. I also accept Mrs Breen’s evidence that she was out with Mrs Connolly on the day in question looking for children but there was not much more Mrs Breen could add after that about the events immediately preceding Mrs Connolly’s death and the aftermath.

[70] Ann Callaghan provided a statement to CSNI dated 23 May 2018. She also made a short statement dated 5 November 2010 which referred to events. Ann Callaghan gave evidence to me. She was 18 years old at the time and lived at 637 Springfield Road. On the evening in question she said she was at her bedroom window with her 12- year- old sister, Theresa, and she saw four soldiers come out of the barracks shooting and that they went to the pillars at the entrance to the field where two men were taking shelter. Ms Callaghan said the soldiers pulled the men out into the road and shot the man “like a figure eight” and the other man was also shot on the ground. This evidence was tested during oral testimony to the point where a clear account did not emerge and so it would be unsafe to rely on this testimony.

[71] Robert Russell provided a statement to CSNI of 22 May 2018. He also made a statement of 8 December 2012 and he was interviewed by Laura McMahon in 2009 and Mr Mahon in 1999. Mr Russell also gave oral evidence about this incident, as he did about other incidents. This witness was aged 13 at the time of events and his evidence is that he viewed events from the window of his family home at 37 Springhill Crescent. In particular, Mr Russell said in his evidence that he saw Joseph Murphy being shot. His brother Gerard was shot but survived, however he

has not been able to give evidence at this inquest due to illness, specifically including Alzheimer's disease. I have however been able to consider the depositions of Gerard Russell, which I will come to.

[72] As regards Robert Russell, he did not give any contemporaneous accounts however he underwent various interviews from 1999 which discussed his recall of events in the Manse. That broke down into one incident near a 'stump' of trees and one near the pillars. As this evidence progressed and was subject to examination, a number of problems arose because of inconsistencies in accounts and also a conflict with the evidence of Gerard Russell. Mr Robert Russell has changed his account of what happened in some material respects. As regards the first incident at the stump near trees Mr Russell told Mr Mahon in 1999, in the first recorded account, that he saw two people being shot by two soldiers from four feet away, the soldiers having come into the Manse. In the 2012 statement he said it was one person shot by one soldier. That was the version given in evidence. In the Mahon account he said 30 rounds were fired, but that changed to 6 or 7 rounds in evidence. In evidence he suggested that he did not see the soldier until shooting began, contrary to previous accounts. Mr Russell also thought the person was Mr Murphy, however the other evidence refers to Mr Murphy being shot at the pillars not at this different place. Overall, I cannot rely on such varying testimony of such a significant event. As regards events at the pillars Mr Russell referred to seeing his brother shot there by soldiers.

[73] Again, the varying accounts are problematic. To Mr Mahon, Mr Russell referred to soldiers shooting at his brother at the pillar and someone else. In evidence, it was one soldier who was only shooting at his brother. Mr Russell told Mr Mahon there were 1,200-1,500 people rioting at the Henry Taggart Hall between 5.30am-6.30am, but in evidence he accepted that assessment was unreliable along with the sequencing he explained to Mr Mahon. So I have a difficulty accepting the detail of this account. I do accept that Gerald was shot and that Mr Russell either

saw something or heard about this. However, as I have said he cannot be relied on for details.

[74] Mr Russell did say a member of the Official IRA used a Thompson submachine gun to attack the Henry Taggart Hall in the afternoon. Again, I cannot be sure this is right given the inconsistencies in Mr Russell's account. I accept his general statements, which have a ring of authenticity, that there was rioting during the day and speculation that the Provisional IRA were going to respond towards the Henry Taggart and that there were rumours about Republican shooting towards Springmartin.

[75] Evidence was read and admitted under Rule 17 in relation to Gerard Russell due to his unavailability/illness. It seems clear that he was shot on the night in question. However, there is a question mark as to the location of this. In particular, his brother Robert clearly said that it was at the pillars in the Manse but another civilian witness, Margaret Mervyn (nee McStravick), said in her evidence to me that Gerard Russell was shot outside her family home in Springhill Crescent.

[76] Gerard Russell gave a contemporaneous account of events in a series of depositions in 1971. This is, of course, significant as this is a civilian account from the time. In that, Mr Russell said he and another man were hit by fire from the Springmartin estate and he was struck on the right hip and through the buttocks. He doubted it was the Army. This account remained intact until 2009 when Gerard Russell made a statement to the Historical Enquires Team ("HET") in which he maintained his 1971 account was not correct. In that subsequent account he changed his position to say that a six-wheeled military vehicle drove into the field, the rear doors opened and two soldiers who saw him opened fire once they got out. Mr Russell did not explain why the first account was wrong.

[77] There is a further unusual statement taken in June 2019 with the assistance of a carer Ms Evans. I have obviously to treat this with great caution given that it was

compiled by lip reading, gestures and put together by the carer from a number of stories over the years. It is not evidence which I can safely rely on. The issue is rather whether the 1971 or 2009 account of Mr Russell's shooting is likely to be correct. In my view the 1971 account is to be preferred for a number of reasons not least that it was at the time, also there was no suggestion it was improperly obtained and also the later account does not accord with other civilian evidence.

[78] Brieger Voyle is the daughter of Joan Connolly. She provided a statement to CSNI of 11 October 2018 and she also referenced an interview with Mr Frank Martin in 2012. Ms Voyle confirmed some evidence given by Anne Breen that Mrs Connolly was friendly with the Army when they first arrived. She also confirmed that on the day in question she went with her friend Linda Breen to Corpus Christi Church where they were helping Fr Mullan. She referred to a riot situation in Springfield Park and general chaos in the area. She said her mother was out looking for her children but did not come home and that, in a similar vein to Mrs Breen, the Army had issued some threats towards her mother.

[79] Margaret Mervyn also gave evidence to me. She was Margaret McStravick at the time. She provided a statement to CSNI of 27 February 2019 and she had previously been interviewed by Paul Mahon. Her father, Sean McStravick, gave a contemporaneous account. In her accounts she referred to the shooting of Gerard Russell, who she said was standing with her and was shot in the backside from either Corry's Yard or the yellow cottages at Springfield Road. In her statement Mrs Mervyn also recalled Eddie Butler being helped out of the field and being brought to her house.

[80] Francis Notarantonio also attended to give oral evidence to this inquest although he had declined to make a formal statement. He had previously been interviewed by Mr Mahon. He was 14 at the time of events and he was friends with Mr Morgan and Mr Phillips who was in the Manse field with him. I have to say at the outset that Mr Notarantonio presented as a rather reluctant witness. He placed

his recall of shots around 8:50pm when he was with the others outside the gates of the Manse. He ran into the Manse after this. The description of the shooting given in evidence was from Springmartin. He said he lost contact with Mr Morgan but he was with Noel Phillips, who he said was shot in the back.

[81] Mr Notarantonio reluctantly accepted in evidence that his father and brother were IRA volunteers and he was interned. He also encountered the Butlers in the field and he saw a woman, who he now knew was Mrs Connolly, who said she could not see. He said he saw a Saracen come in and soldiers shoot at people at the pillars. In evidence Mr Notarantonio said of the people he could just hear voices and see silhouettes. This part of the evidence differed from others in the Manse. Overall, this evidence was very hard to follow, and as I have said, Mr Notarantonio presented as so reluctant that I have difficulties placing much weight on this. I accept he was in the field with Mr Morgan but I think his recollection of all events over the three hours he said he spent in the field is very unclear.

[82] Oral evidence was also given by the following, which although not directly by way of witnessing events also has some relevance and which I summarise as follows.

[83] Elizabeth Adams is the daughter of Davy Callaghan. She said she spoke to Joan Connolly at Divismore Park, who was looking for her children. The witness also gave evidence that her father had been abused in Henry Taggart Hall.

[84] Michael O'Hara was primarily an Incident 1 witness, but he also gave evidence of meeting his aunt, Joan Connolly, near Springfield Park and that he had an encounter with 2 Para soldiers on 10 August 1971 boasting about shooting Joan Connolly.

[85] Michael Doherty was primarily an Incident 1 witness, but he also gave evidence of meeting his aunt, Joan Connolly, at the entrance to Moyard Park at approximately 7:00pm on 9 August 1971. He told me that she was agitated because

she could not find her girls, Briega and Joan. Mr Doherty told his aunt that he would look for the girls and that she should go home. He, along with his cousin Michael O'Hara, escorted her part of the way back down Springfield Park. About this time he said that shooting started from everywhere and he was caught in crossfire from the back of the Henry Taggart Hall and from Saracens above Springmartin Road. He described the gunfire as "very heavy from both directions."

[86] Francis Corr was primarily an Incident 1 witness, but he gave evidence about meeting Joan Connolly looking for her children. During evidence he marked Exhibit B2/01 with that location.

[87] In addition to the oral evidence of civilians who came forward to assist me, I heard written, recorded evidence from some. It is important to note that I excused some of these witnesses due to illness; some are also deceased. The statements range from those made at the time to those taken after the event. I have found the following of some evidential value. I am particularly interested in contemporaneous accounts of those who were in the Manse.

[88] Daniel Callaghan is one whose statement I place some reliance on. On 20 August 1971 he made a complaint against the Army, specifically "2nd parachute." The record of this states that he said he had been going to a wake on 9 August 1971 when he was caught up in disturbances and took refuge behind a pillar. Within minutes of positioning himself there he said shooting started "from two sides." He names two men, Mr Murphy and Mr Teggart, as being killed and he said others were wounded. He said at 9:30pm he was picked up after a Saracen came down the Springfield Road. He was picked up in this and brought to Henry Taggart Hall where he said he was trailed along the ground, kicked and struck by rifle butts - he said he was injured as follows: "ribs bruised, can't go to toilet properly, 7 stitches on head, 5 stitches back of ear, bruises" and his glasses were broken.

[89] Desmond Crone also provided a statement at the time which was admitted. He provided a deposition to the original inquest as he identified Joseph Murphy's body. He was with Mr Murphy in the Manse when he was shot and he recalls Joan Connolly and Daniel Teggart in that location. He said in that that he was out with Mr Murphy looking for his son Raymond. He was at the pillars of the Manse talking to Joan Connolly and Daniel Teggart around 8:45pm. He said at no time did anyone in the field behind him fire but "all of a sudden the army at the Taggart Hall opened fire on us." He said Daniel Teggart ran with Daniel Breen towards the river at the back of Divismore Park and Mr Teggart said he had been hit, but because of firing he could not get to him. He said Joan Connolly ran towards the gable at the Springhill houses and shouted "I'm hit in the eye." Her body lay in the field for over an hour until collected by a Saracen which contained the soldiers who placed the bodies in the back "like animals" and one allegedly shouted "kill the bastards."

[90] In addition, other statements were read which corroborate events as follows:

[91] Philomena O'Hara was the cousin of Margaret Elmore and Agnes Keenan who gave evidence. Her statement says she was with them in 629 Springfield Road and that she heard what happened to Joan Connolly and heard bodies being recovered later.

[92] Theresa Callaghan was the sister of Anne Callaghan who gave evidence. She saw soldiers come out of Henry Taggart Hall, shooting into the Manse. Also, according to her statement one pulled two men out onto ground and shot them.

[93] Sarah (Sheila) McCalliskey's account refers to Joan Connolly who she said told her a Para had threatened her a few nights before internment.

[94] Margaret Goodman was Joan Connolly's niece. She recalled meeting a lady who lived on Springfield Road who said she saw Joan Connolly lying in the field calling for help.

[95] Alice Harper was Daniel Teggart's daughter. She identified him at the morgue. She also recalled her mother giving evidence at original inquest and soldiers sniggering.

[96] Malachy McAnespie recounted that in 1971/1972 he saw maps in Springfield Road Barracks with all Ballymurphy residents' names noted on it.

[97] Margaret (Peggy) Burns was a first aider in St Thomas' School on 9 August 1971. She said Joan Connolly's husband came there looking for her. She recalled neighbours talking about Joan Connolly getting a warning from soldiers on 9 August 1971.

[98] Paul Connolly is Joan Connolly's son. His statement provided evidence about family circumstances, rioting on 9 August 1971 and his mother going out to look for her children. He said he saw one man with a pistol on 09.08.71 walking up Ballymurphy Road.

[99] Mary Murphy was Joseph Murphy's wife. She said that he told her about ill-treatment in Henry Taggart Hall after he was shot. She said he talked about ill-treatment by Paras for 3 years after husband's death.

[100] William Ward said that he was with Joseph Murphy, David Callaghan and Daniel Teggart at Manse. He said soldiers came out of Henry Taggart Hall on foot and started shooting. He was shot.

[101] Denis Connolly was Joan Connolly's husband. He made an original inquest deposition in which he said he identified the body of Mrs Connolly.

[102] Robert Phillips was the brother of Noel Phillips. He made an original inquest deposition in which he identified the body of Mr Phillips.

[103] Gerald Teggart was the brother of Daniel Teggart. He made an original inquest deposition. He said he was with him at Springfield Park/Moyard Park when shots were fired and that Daniel Teggart ran towards Springfield Road.

[104] Civilian evidence confirmed that none of the deceased were gunmen/women. I bear in mind that these witnesses may be family members or part of the community. Someone who is independent of that is Stephen Pittam, an Englishman who was living and working in the Ballymurphy area at the time as a student volunteer. He gave his perspective that when the Parachute Regiment came into the area, shortly before these events everything changed. He said there was a real gun battle going on. He said that he was targeted and questioned and beaten by the Army on 10 August himself. He also said he remembered one conversation with a paratrooper who said that in Aden “we knew who the enemy were – here we don’t really know who the enemy are, so we treat everyone as the enemy.”

V. *MILITARY EVIDENCE*

(i) *Military logs/evidence of log keeper M 226*

[105] I now turn to the military evidence in relation to this incident. First, the military logs are of importance in recording events at the time. The full watch keeper’s logs for 2 Para HQ have been provided for 9 and 10 August contained in 21 pages of records. The 2 Para HQ log is a Battalion log and so it contains information from all companies and is wider than Ballymurphy. Incident 2 involves the 2 Para B Company area (V2) and 2 Para Support Company (V5), although the latter is more relevant to Incident 1. M226 provided a helpful statement of 8 March 2019 in which he explained and interpreted the logs. He also gave evidence about these records. I refer to this evidence as follows with words in italics representing M226’s explanations.

**“9 August 1971 2 Para HQ Watchkeeper’s Log and
9 August 39 Airportable Brigade Log**

*“TAC”, which receives the messages, is 2 Para Battalion HQ
(at the material time that was the Operations Room in
Springfield Road RUC Station)*

Sheet 1

04.35 Serial 3

V2 (2 Para B Company) reporting 'Action has started in
Ballymurphy'

*(I interpret this to be a reference arising from the
commencement of Operation Demetrius.)*

- 2 Para HQ informed 39 Brigade

05.02 Serial 6

V2 (2 Para B Company) reporting 'small crowd outside our
location at main gate, stoning vehicles and soldiers as
they go past. Crowd about 100, mainly women'.

- 2 Para HQ informed 39 Brigade

05.16 Serial 7

V2 (2 Para B Company) reporting that the 'Crowd has now
moved down Divismore Park and are regrouping outside
Adams home.'

- 2 Para HQ informed 39 Brigade

05.25 Serial 9

V2 (2 Para B Company) reporting that 'Crowd building barricade at Springhill'

- 2 Para HQ records V5 (2 Para Support Company) keeping an eye on the situation

05.35 Serial 11

V2 (2 Para B Company) reporting 'Quite a crowd building up on interface, 1 baton round fired, would like help from V5 (2 Para Support Company)'

- 2 Para HQ informed 39 Brigade

05.40 Serial 12

SPCoy (2 Para Support Company) reporting 'Springhill Ave blocked by crowd of 100 stoning military movement in Sp (Springhill or Support Company TAOR) but giving crowd chance to de-escalate.'

- 2 Para HQ informed 39 Brigade

05.45 Serial 13

V2 (2 Para B Company) report 'Crowd in front of Henry Taggart about 200 strong. We are being heavily stoned and they are making a lot of noise, 4 petrol bombs thrown.'

- 2 Para HQ informed 39 Brigade

Sheet 2

06.19 Serial 18

V5 (2 Para Support Company) report 'Nail bomb thrown at C/S V56 no casualties. This C/S is at interface.'

(The corresponding Serial 50 at 06.20 on the 39 Airportable Brigade Log for 9 August 1971 suggests this was at the Springmartin interface.)

06.32 Serial 22

V2 (2 Para B Company) reporting 'Crowd of 200 plus outside Henry Taggart. 14 petrol bombs thrown at location. 5 baton rounds fired at crowd. 2 sub units of V5 (2 Para Support Company) deployed into crowd. Crowd dispersed slightly.'

- 2 Para HQ informed 39 Brigade

06.38 Serial 24

B3 (1 Para C Company) reporting 'One sub unit of this Loc has fired 1 baton round at crowd outside Henry Taggart and a further one at crowd at junc (*junction*) of Andersonstown - Finaghy Rds.'

06.44 Serial 26 (and 06.58 Serial 28 and 07.00 Serial 29)

V5 (2 Para Support Company) reports *fatal injury (of what turns out to be a security guard) at Mackies factory, following a bomb. Mackies has a serious fire as a result.*

- 2 Para HQ informed 39 Brigade

Sheet 4

09.19 Serial 64

RUC report to 2 Para HQ that 'Crowd from Moyard trying to get into Finlay Factory'

- 2 Para HQ asks V2 (2 Para B Company) to attempt to get round to take care of this.

09.40 Serial 68

V2 (2 Para B Company) reports that the 'sentry on Henry Taggart has been fired at, approx. 30 rounds of automatic fire. Shots came from flats in Moyard Park. No casualties.'

- 2 Para HQ informed 39 Brigade

(Serial 124 of the 39 Airportable Brigade Log at 10.16 contains a record of a telephone call from a Mrs Shaw in Springfield Park requesting military presence because a crowd from Springmartin attacked flats that morning. It is recorded that Brigade informed 2 Para. Sheet 5 of the 2 Para HQ log sets out what 2 Para were dealing with at that point in time; barricades, petrol bombs, fires, shootings. I cannot tell from the logs if a military presence was sent at that time.)

10.45 Serial 75

V2 (2 Para B Company) reports 'Six petrol bombs being thrown from flats to NE of position.'

- 2 Para HQ informed 39 Brigade

(Serial 179 of the 39 Airportable Brigade Log contains a Sitrep [Situation Report] from 2 Para as at 12.05 on 9 August 1971

recording a summary of what appears to be the more serious incidents that have occurred in the 2 Para TAOR by that point.)

Sheet 6

12.13 Serial 94

BCoy (2 Para B Company) report 'Continued petrol bombing of Henry Taggart.'

(Serial 185 of the 39 Airportable Brigade Log contains the request for permission to use water cannon, and its approval by the Chief of Staff.)

12.57 Serial 106

B (2 Para B Company) report 'Neptune' (water cannon) arrives at B Coy location

(See Serial 86 where it had been being previously escorted to Paisley Park)

Sheet 7

15.42 Serial 121 (and 15.42 Serial 124 from Sp (2 Para Support Company))

Queens *(it is not clear from the entry which battalion of Queens)* report '2 gunmen on roof of Corries wood yard'

Sheet 8

16.50 Serial 139

HQ Brief Sitrep (Situation Report) to companies of 2 Para
B (2 Para B Company) records 'crowd 100 HT (Henry
Taggart), Neptune Store VF
81 petrol bombs (recorded being thrown)
41 rubber bullets (fired by 2 Para B Company)
1 x 7.62 bullet (fired by 2 Para B Company)
35 CS (canisters fired by 2 Para B Company)
Cas Nil (no casualties)'

18.00 Serial 149

(Companies providing Situation report to 2 Para HQ)

B (2 Para B Company)

- Stoning continued Springfield Road
- Barriers 70m SSW of HT (Henry Taggart)
- Barrier 120m further on

Sp (2 Para Support Company) area quiet

*(Serial 268 and 269 of the 39 Airportable Brigade Log contains
situation reports from 2 Para at 17.55 and 18.01 on 9 August
1971)*

18.45 Serial 154

'B (2 Para B Company) reports 'Ballymurphy - evening
crowd.'

Intensive stoning - HT (Henry Taggart) Intermittent
stoning - VF (Vere Foster) mostly by kids

Appear to have run out of petrol.

(Serials 282 and 283 of the 39 Airportable Brigade Log of 18.45 and 18.35 on 9 August 1971 may contain some additional information about crowd build ups and some shooting that do not appear on the 2 Para HQ log)

Sheet 9

19.05 Serial 155

HQ communication to what appears to be the Majors of 2 Para B Company (V29), 2 Para Support Company (V59) and Queens (Y29)

CO arranges armd column to relieve B Coy – codename
MAFEKING

(Serial 293 of 39 Airportable Brigade Log of 19.15 refers to 2 Para's request to Queens to deal with gunmen in Turf Lodge as 2 Para suspected an attack on Henry Taggart Hall would take place soon)

19.25 Serial 156

B (2 Para B Company) reports '4 shots from Divismore Park aimed at HT – No hits/cas' (*casualties*)

- 2 Para HQ informed 39 Brigade

20.30 Serial 161

B (2 Para B Company) reports 'Approx 150 have come along Springfield Rd to interface to intercept Prots

(Protestants) who had crossed Peaceline. Crowd broken up by Neptune (*water cannon*) and gas.'

20.31 Serial 162

RUC inform 2 Para HQ that "RCs (Roman Catholics) infiltrated into Springmartin area. Armed men also seen."

20.45 Serial 165

Sp Coy (2 Para Support Company) report 'Civy (civilian) in Sp Coy Loc wounded by sniper. Ferrets sent to sort out. Sniper's loc at top of Springmartin/Ballygomartin.'

(See also Serial 166 at 20.45 which appears to be a contemporaneous report from 2 Para B Company, potentially about the same incident.)

(See also Serial 318 of 39 Airportable Brigade Log at 20.45, which refers to "Cat (Catholic) sniper has hit Prot – taken to Paisley Park.)

20.45 Serial 166

B Coy (2 Para B Company) reports 'Shots. Ballygomartin area at junction Springmartin.'

20.47 Serial 167

Queens report 'Shot prod (Protestant) in Ballygomartin'

(I interpret this report to mean that soldiers from Queens have become aware of a Protestant being shot, not that soldiers from Queens shot the individual. It may be the result of the shooting heard and referred to in Serial 165 and 166.)

(Serial 320 of 39 Airportable Brigade Log at 20.48 refers to information received from a Father Murphy that he has just heard that there is a confrontation between Prots and Cats of 200 on each side in Springmartin.)

20.55 Serial 170

B Coy (2 Para B Company) reports 'Firing at Henry Taggart – at least one man hit.'

(I interpret this report as informing HQ that firing at Henry Taggart has resulted in at least one individual, who is not a soldier, being shot.)

21.00 Serial 172

B Boy (2 Para Company) reports 'Second man shot at Henry Taggart.'

(I interpret this second report, which is 5 minutes after the previous report as far as the log is concerned, as informing HQ that shooting from Henry Taggart has resulted in a second individual, who is also not a soldier, being shot.)

(Serials 324 and 325 of the 39 Airportable Brigade Log, both at 21.02, record that 2 Para inform Brigade that two men have been shot at Henry Taggart, and they are trying to recover the

bodies, and then 3 bodies, with an indication that they are not sure about the number.)

(Serials 326 of the 39 Airportable Brigade Log records 2 Para informing Brigade of 1 Cat (Catholic) and rifle at Springmartin Rd captured and 5 civilians killed.)

21.04 Serial 173

Sp Coy (2 Para B Company) reports 'Man caught with rifle in Ballygomartin - he came from Ballymurphy - there has been a lot of shooting in this area.'

21.05 Serial 174

Sp Coy (2 Para B Company) reports '5 possible kills at Ballymurphy.'

(I interpret this third report, which is 5 minutes after the previous report as far as the log is concerned, as informing HQ that shooting from Henry Taggart has resulted in the possibility that five individuals, who are not soldiers, have been killed.)

21.07 Serial 175

B Coy (2 Para B Company) reports 'Firing on position from Moyard flats. Heavy automatic fire.'

- 2 Para HQ informed 39 Brigade

(I interpret this record as indicating that 2 Para B Company positions are taking fire from gunmen using automatic weapons who are based in Moyard flats. There had been firing from Moyard flats with automatic weapons at 09.40, see Serial 68; it is not possible for me to tell from the log whether this firing was coming from the exact same location.)

Sheet 10

21.08 Serial 176

B Coy (2 Para B Company) reports 'Ref shot locals - prob 4 wounded 1 woman dead.'

(I interpret this serial, which is 3 minutes after serial 174 that reported "5 possible kills", as indicating that, of the 5 individuals believed to have been shot, 4 of them are wounded, and the 5th, a woman, is known to be dead.)

21.10 Serial 178

Queens *(it is not clear from the entry which battalion of Queens)* reports 'From flat to NE of Henry Taggart heavy firing at HT.'

(Serial 329 of the 39 Airportable Brigade Log at 21.20 records 2 Para informing Brigade of heavy automatic fire from Moyard flats.)

21.12 Serial 179

Sp Coy (2 Para Support Company) report 'Heavy shooting in Dunboyne Park. No of cas (casualties) not known.'

21.16 Serial 181

B Coy (2 Para B Company) reports 'Windows in flats determined as sniper location. Fire returned, probably one man wounded.'

21.20 Serial 182

Sp (2 Para Support Company) reports 'Hy (heavy) firing in Moyard by my sub-unit and Queens Coy in fire posn (positions) on Springmartin.'

21.22 Serial 183

B (2 Para B Company) reports 'Shooting seems to be dying out slightly.'

21.23 Serial 184

B (2 Para B Company) reports '1 woman still dead in Divismore Park - 5 bodies in HT (Henry Taggart) 1 probably dying.'

(Serial 335 of the 29 Airportable Brigade Log at 21.25 records as a call from an individual who had heard a report that there were armed Protestants moving down from Springmartin towards Ballymurphy. Brigade informed him that troops were deployed looking after the confrontation.)

21.30 Serial 186

B (2 Para B Company) requests 'resup (resupply) of 7.62.'
(I interpret this entry as 2 Para B company seeking a resupply of SLR rifle ammunition.)

21.35 Serial 187

SP (2 Para Support Company) reports 'At least one more wounded civilian in Moyard has been taken into the flats by civilians.'

(I interpret this entry as potentially implying that there has been a previous instance of a wounded civilian being taken into the Moyard flats, in addition to the subject entry, but I cannot see an earlier report of that on the log.)

21.35 Serial 188

(This appears to have been erroneously recorded or typed as 21.25, and should, I consider, be read as 21.35 when one considers the Serials from 185 to 194.)

SP (2 Para Support Company) reports 'Hy (heavy) firing against V71 (A Coy) in Dunboyne Park.'

21.36 Serial 189

(This appears to have been erroneously recorded or typed as 21.26, and should, I consider, be read as 21.36 when one considers the Serials from 185 to 194.)

SP (2 Para Support Company) reports 'Missing man of Queens still missing. Am moving towards Springhill Avenue to see whether he has been shot.'

21.38 Serials 190 and 191

(This appears to have been erroneously recorded or typed as 21.28, and should, I consider, be read as 21.38 when one considers the Serials from 185 to 194.)

(I would also tend to read the two serials as one, as they appear to be one Situation Report received from 2 Para B Company.)

B (2 Para B Company) provides a Sitrep (Situation Report) to HQ.

Sitrep: a. 1 Sangar at VF under fire from New Barnsley
b. Also firing from bank on far side of rd and Moyard flats. The high velocity weapon probably from Adams' house or 2 men in front.

Injuries: 1 woman with face blown off
1 back, 2 chest, 2 legs
The wounded man has died

21.38 Serial 192

(There is no time associated with this Serial; I consider it is likely to have been in response to the SitRep information from 2 Para B Company, and therefore to be in and around the same time as 2 Para B Company provided the SitRep.)

HQ informs 2 Para B Company "Difficult to get ambulance up as recently shot up in Falls."

(Serial 340 of the 39 Airportable Brigade Log at 21.40 records 2 Para informing Brigade of a vicious battle in the area of Henry Taggart, Cats (Catholics) attacked, firing shots, throwing stones etc. Cats (Catholics) also attacking prots (Protestants) in Springmartin. 2 Para retaliated, large number of shots fired. At least 6 people have been hit. 1 has been recovered, there may be a dead woman in the road. 1 man (cat) (Catholic) has been lifted carrying a rifle in Springmartin area.)

21.45 Serial 193

B (2 Para B Company) informs HQ '1 of the wounded will die unless moved quickly.'

21.48 Serial 194

Queens (it is not clear from the entry which battalion of Queens) reports '200 in Highfield estate breaking up houses and causing other damage.'

Sheet 11

21.50 Serial 195

B (2 Para B Company) reports 'Probably two people killed in Moyard flats judging by screaming and wailing within.'

21.55 Serial 196

SP (2 Para Support Company) reports 'Phone call from Corries Timber yard. Under fire from Springhill 2 soldiers in here but pinned down.'

21.56 Serial 197

SP (2 Para Support Company) reports 'Still sniper in Moyard but Springmartin area is quiet.'

21.58 Serial 198

SP (2 Para Support Company) reports '1 fairly certain kill and 3 wounded at HT as seen from Springfield Road.'

22.00 Serial 199

(This appears to have been erroneously recorded or typed as 22.00, and should, I consider, be read as 21.00 when one considers the Serials from 197 to 203 NB: erroneously said 21.00.)

B Coy (2 Para B Company) informs HQ 'Have made an announcement concerning ambulances – since then only one shot has been made.'

22.07 Serial 200

(This appears to have been erroneously recorded or typed as 21.07, and should, I consider, be read as 22.07 when one considers the Serials from 197 to 203.)

B Coy (2 Para B Company) reports 'Require plasma for Starlight.'

(I interpret "Starlight" as a reference to the medic with 2 Para B Company.)

22.08 Serial 201

B Coy (2 Para B Company) reports 'Ambulance report passing Queens 15 mins ago has still not arrived.'

22.10 Serial 202

Queens *(it is not clear from the entry which battalion of Queens)* reports 'Ambulance moving to HT now.'

22.15 Serial 204

RUC report to 2 Para HQ that 'mbush of crowd Army have captured one gunman and shot another in Springmartin.'

(See also Serial 371 of the 39 Airportable Brigade Log at 22.15 which appears out of sequence.)

(Serial 361 of the 39 Airportable Brigade Log at 22.15 records a radio announcement from what appears to be Radio Falls that has been passed to Brigade. It may be the subject announcement was made at 20.30 that evening. The public announcement is recorded as referring to rioting and shooting in Ballymurphy and a claim that Brit Army thugs were beating up the people of Ballymurphy. Brigade informed 2 Para and 3 Queens.)

22.25 Serial 206

SP Coy (2 Para Support Company) reports 'Ref Amb (ambulance). They still refuse to go down. Previously agreed to go down with Pig escort. RMO (Regimental Medical Officer) has gone up to escort.'

22.27 Serial 207

SP Coy (2 Para Support Company) reports 'Amb still refuses to go in, a Pig from my c/s going to help.'

22.30 Serial 208

SP Coy (2 Para Support Company) reports 'Man has now died.'

22.40 Serial 209

V5 (2 Para Support Company) reports 'Confirmed that during interface shooting J Vaughan aged 16 was shot in back. He was evacuated.'

(This may refer to the shooting recorded at 20.45 and referred to in Serials 165, 166 and 167 above; also Serial 364 of 39 Airportable Brigade Log at 22.30 and Serial 373 at 22.46.)

22.41 Serial 210

V2 (2 Para B Company) report 'We have been fired at three times from area of Moyard Park.'

22.42 Serial 211

Y2 (Queens) report 'We have fired 12 x 7.62, 2 x 9mm, 2 x baton rounds.'

(I interpret this as the relevant Queens unit confirming how many shots they have fired, and from which type of weapon.)

22.44 Serial 212

V2 (2 Para B Company) reports 'soldier hit in right upper arm. Does not need RMO.'

(See also Serial 366 of the 39 Airportable Brigade Log at 22.45)

22.53 Serial 213

Civilian call to 2 Para HQ records 'A Mr Napier states Father Mullan is being (possibly should be 'lying') in a field behind Moyard Parade. He is dead.'

(This appears to be the first reference in the logs at 22.53, that a priest was killed.)

(See also Serial 368 of the 39 Airportable Brigade Log at 22.55)

(Serial 370 of the 39 Airportable Brigade Log at 23.01 records what appears to be 14 matters in the hands of RMP; some of the individuals appear to be relevant.)

(Serial 382 of the 39 Airportable Brigade Log at 23.05 refers to firing from Moyard from 2 points, 1 high velocity weapon used, 3 rounds returned.)

23.16 Serial 216

B3 (1 Para C Company) report 'An amb (ambulance) has arrived at RVH (Royal Victoria Hospital) with a victim of shooting in Ballymurphy.'

(It is not clear from the log who this victim is, though I note that Serial 209 referred to a 16 year old boy, who had been shot in the back, being evacuated.)

Sheet 12

(NB: someone either in recording or typing, appears to have made a mistake with the serial numbering on the final page of the log for 9 Aug 1971. It should have commenced at Serial 218 (following on from the end of page 11), instead it commences at Serial 195 (which is erroneously following on from the end of page 10.)

(Serial 394 of the 39 Airportable Brigade Log at 23.20 refers to a conversation had, or to be had with Father Murphy with instruction to say that Father Mullan may not be dead only wounded. He left his home at 45 Springfield Park to tend to a wounded man in a field above Moyard Parade by a Printing Works. He needs first aid. 2 Para checking.)

23.25 Serial 196 (*this should be 219*)

RUC report to 2 Para HQ that 'Father Mullan has been taken to RVH.'

(When you look at page 8 of the 2 Para Operations report of 24 August 71 this RUC report may well not be accurate as the Operational Report states that his body was recovered next day. This illustrates just how confusing the situation was.)

23.52 Serial 206 (*should be 229*)

RMO (Regimental Medical Officer) reports 'Second soldier wounded. Flesh wound upper arm ...' soldiers

(The soldiers, who were both named, were taken to the Royal Victoria Hospital; it is not clear in what shooting their injuries were sustained.)

(Serial 402 of the 39 Airportable Brigade Log at 23.49 records 2 Para informing Brigade that Father Mullan – ill in hospital – seen on BBC News.)

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(Serial 11 of the 39 Airportable Brigade Log for 10 August 1971 at 00.40 records 2 Para reporting that there was a 99% chance that Father Mullan is at the Mater Hospital.)

(Serial 12 of the 39 Airportable Brigade Log for 10 August 1971 at 00.43 records 2 Para informing Brigade that a civilian has entered Springfield Road RUC Station confirming that Father Mullan was dead – Brigade informed HQNI.)

Sheet 2

01.47 Serial 18

V2 (2 Para B Company) report 'Have found body of woman who was shot earlier on. Taking it to Henry Taggart Hall.'

(Serials 40 and 41 of the 39 Airportable Brigade Log for 10 August 1971 at 02.00 records the RMP informing Brigade that Father Mullan was lying in state at 48 Moyard Park. Last rites were administered by a priest from the Monastery. HQNI were informed.

RMP also reported from the City Morgue where 5 bodies were recorded present; 2 of the bodies were said to relate to the shooting at Henry Taggart Memorial Hall.)

(Serial 44 of the 39 Airportable Brigade Log for 10 August 1971 at 02.10 records 2 Para informing Brigade that a Catholic priest had come to Vere Foster School and claimed to have administered the last rites to Father Mullan.)

04.22 Serial 27

V2 (2 Para B Company) report 'There are 3 men moving round our loc (location). They are armed. We are trying to get them out inot (in to) the open.'

04.50 Serial 28

V2 (2 Para B Company) report 'There are now armed men around our location in the following places: 2 men on roof of flats in Moyard Crescent firing down. 3 men in open ground between our loc (location) and Springfield Park. 1 man in bushes on Moyard Parade.'

Sheet 3

05.40 Serial 29

V2 (2 Para B Company) reports 'Men who were in posn (position) round our location withdrew at first light.'

- Brigade informed

(Serial 101 of the 39 Airportable Brigade Log for 10 August 1971 at 06.10 records 2 Para informing Brigade that 1. Man on balcony of Moyard flats is dead. We had been observing it all night. 2. Believed to be 3 bodies in a house in Moyard Crescent, one of them may be Father Mullan.)

06.12 Serial 32

V2 (2 *Para B Company*) reports '1 man on balcony of Moyard flats is still there as he is dead.'

- Brigade informed

06.13 Serial 33

V2 (2 *Para B Company*) reported 'A man has reported that there are three bodies in a house in Moyard Crescent, one of them is a priest, Father...has been asked to go and check. Brigade informed.'

07.25 Serial 39

V2 (2 *Para B Company*) reported 'One body has been brought out of 39 Moyard Parade. Sex not known.'

07.26 Serial 40

V2 (2 *Para B Company*) reported 'Another body has been brought out. Sex not known.'

07.28 Serial 41

G1 (2 *Queens A Company*) reported 'Some men have placed a cross and a black flag on open ground between my location and V2 (2 *Para B Company*).'

07.40 Serial 42

V2 (2 *Para B Company*) reported 'A third body has been brought out of a house in Moyard St.'

- Brigade informed

(Serial 116 of the 39 Airportable Brigade Log for 10 August 1971 at 07.40 records 2 Para informing Brigade that were 2 ambulances in Moyard – unfortunately I cannot read the rest of the Serial.)

(Serial 119 of the 39 Airportable Brigade Log for 10 August 1971 at 08.10 records the SIB (RMP Special Investigation Branch) informing Brigade that Father Mullan was in the RVH – shot in back (dead). A redacted name is also in the RVH, also dead having been shot in number of places. 3rd body still on balcony.)

(Serial 157 of the 39 Airportable Brigade Log for 10 August 1971 at 12.15 records 2 Para informing Brigade of an explosive device thrown at Vere Foster School from Moyard Crescent.)

(Serial 230 of the 39 Airportable Brigade Log for 10 August 1971 at 16.00 2 Para reporting guarding houses in Springfield Pk.)

Sheet 7

19.50 Serial 150

V2 (2 Para B Company) reported “‘Crowd stoning Henry Taggart’

Sheet 8

21.30 Serial 175

BCOY (2 Para B Company) reported 'Vere Foster under fire.'

21.35 Serial 177

BCOY (2 Para B Company) reported 'Ref firing - from 3 flats, not returned fire yet.'

21.52 Serial 183

V2 (2 Para B Company) reported 'Under fire from Divismore Park again, not effective. Not returning fire this time.'"

(ii) Military Witnesses

[106] In dealing with the military evidence in this case I am struck by the fact that I have not heard evidence from any soldier who fired shots on the night in question in relation to the deceased. Rather I have heard evidence about the overall command from General Howlett, the scene in Henry Taggart Hall and the aftermath when soldiers collected bodies from the Manse. I have also seen the original ciphered soldiers' statements which I admitted under common law to assess as part of the overall picture. That is in the context of a failure to trace these ciphered soldiers which I have commented upon in my introductory section.

[107] I start with General Howlett who gave evidence before me. He was the Commanding Officer of 2 Para at the relevant time. He held the rank of Lieutenant Colonel, stationed at the Battalion Headquarters at RUC Springfield Road. He was aware from briefings of Operation Demetrius and in this inquest he filed a third statement to deal with the 2 Para operations report. He made two previous statements for CSNI of 29 June 2018 and 8 March 2019. There is a note from his

conversation with HET of 16 February 2010. He did not give evidence or attend the original inquests.

[108] In terms of operations, General Howlett confirmed that B Company of about 100 men were placed at Henry Taggart Hall under the command of M45. He said that the choice of M45 was deliberate as he was an experienced soldier and he was calm so he was the right man for the job. He confirmed from the logs that there was a requirement for more ammunition around 9:30pm after a lot of firing which he said was directed at the Hall from the south west, which he marked with an arrow on a map. He arrived at the hall around that time. As regards Ulster Volunteer Force (“UVF”) fire, he said he had never heard that before, he rarely saw them and they did not take the Army on. He cannot recall any debrief and he said he left the hall to M45’s command after the firing. He said the Royal Military Police (“RMP”) would have investigated but weapons would not have been taken away. Overall, he said internment was the “busiest day” of his life. General Howlett spoke about his knowledge of Fr Mullan which I reference in Incident 1. The map marked by General Howlett is at **Annex 2.7**

[109] It was put to General Howlett that there were no weapons found with the deceased and the families say they are innocent people. In answer to questions General Howlett said there was uncertainty at the time as to who was IRA but now he could say that the deceased were not members of the IRA firing at the Army. He was not so sure about associations or physical proximity. He allied the latter comment to his knowledge that this was a pro-Republican area. As regards alleged Army brutality he said he had never heard it at the time and did not think it was true. The General did not see any bodies inside or outside the Hall when he was there.

[110] The MoD submissions record that General Howlett was questioned as follows:

“if the Coroner ultimately finds that what happened here is that a number of innocent people, entirely innocent people were shot dead, you – your position is that your well-trained soldiers opened fire on people who were firing at them and instead of killing those people and injuring them with their fire in fact they missed and shot entirely the wrong people?”

He replied:

“I’m not quite saying that, but it’s quite close to it. What I’m saying is that you will not always hit the person you are firing at. It may even, as has already been suggested this morning, you may fire at somebody and it even goes through their body and hits somebody else or it misses the body they’re firing at and somebody else is – is hit.”

Sir Geoffrey accepted that the people killed were not IRA gunmen and he concluded by extending his condolences to the family.

[111] M45 was the Officer Commanding B Co and in overall command of those in Henry Taggart Hall (and Vere Foster School). He said it was 60 soldiers, although as is apparent in the evidence the exact number has varied. M45 gave comprehensive evidence about ordering fire from Vere Foster School in response to gunfire from Moyard flats. He described actually seeing a gunman on a balcony with a Thompson gun who was shot dead. That is relevant to incident 1. Regarding Incident 2, the Manse, he could not comment on the ordering of fire as he was at the school and M130 was in charge on the ground. He did have evidence to give about requesting a ceasefire by loudhailer and he saw bodies in the Hall afterwards.

[112] In relation to his accounts he provided two statements to CSNI of 30 June 2018 and 20 December 2018 and a RMP statement of 15 August 1971. He also spoke to HET on 15 October 2011.

[113] M45 maintained that Special Investigation Branch ("SIB") investigated these matters and he could not accept any issues with that. As regards the people, he said Mrs Connolly was very obvious as she had been at the Hall making noise on the day and she wore a brown and yellow coat. He was challenged about this as the autopsy said a black and white tweed coat. He maintained his position about Mrs Connolly.

[114] He had not heard of civilian evidence, particularly the account of Davy Callaghan that was put to him. Davy Callaghan said that he was injured when taken into the Hall. In reply M45 said if that was right it was unacceptable. He said M130 who was in charge in the Hall was a second lieutenant, the lowest rank and not the most experienced. He accepted that soldiers may not have hit what they were aiming at but he denied any knowledge of indiscriminate fire. As regards the debrief to General Howlett when he arrived, he could not recall exact details but he did say there was a fence which the crowd tried to pull down during the day. He said that they were warned and backed off. He said there was no truth to the story that the camp was being overrun, when the Manse shooting started. He thought ciphered Soldier A, was M130.

[115] M130 is deceased and may well be Soldier A. Soldier A gave a statement on 2 March 1972. He was a second lieutenant in 2 Para in command of the soldiers in Henry Taggart Hall. He described events during the day on the Springfield Road outside the Hall. Early on in the day rubber bullets and CS Gas were deployed to disperse a crowd outside the Hall.

[116] The initial weapon fire was placed at around 7:21 and described as four shots from a high velocity weapon from a gunman at 712 Springfield Road. Soldier A also

referred to “fierce hand to hand fighting” between rival Catholic and Protestant factions and shooting until 3:45 when there was a lull.

[117] According to Soldier A at 9:00pm the Army at Henry Taggart Hall came under fire from a number of gunmen firing automatic weapons from the Manse, described as waste ground between Divismore Park and Springhill Crescent. It was, he said, from the wooded area near 1 Springfield Park. There was return fire which was heavy directed at 5-8 weapons, return fire being deployed to flashes over a 15-20 minute period. Then Soldier A said he ordered men to stop firing “to enable more control to be given.”

[118] A number of military witnesses gave evidence of the situation in Henry Taggart Hall, the first being M97 who made a statement of 20 September 2018 to CSNI and who was interviewed by HET on 4 January 2011 by telephone. He did not recall a telephone conversation. There were some distinctive aspects to this evidence as follows from this witness who was a Corporal Section Commander involved in arrests as part of the internment operation. First, he described disorder during the day, with a large crowd at one stage outside the Hall, throwing missiles at soldiers. Then he described being in the Hall and using a ladder to get up to a small ventilation window from which he and other soldiers could assume a position. From there, when looking out, at the gable end of the Hall around 8:00pm he said he noticed several gunmen with weapons “brazenly” walking down the Springfield Road towards the Hall. One he recognised as James Bryson, as he had been involved in his arrest a couple of weeks before. He said he shouted to Bryson “I can see you.” In evidence he said to me that he could not believe it. After that he said there was high intensity fire which created debris from the roof. He got down the ladder and moved to a window ledge at the front of the building. He said he saw guns firing from the wasteland from behind a bank/rolling ground. He said he saw flashes not the firers. He cut a circular hole in the glass to fire two rounds by way of double tap. He did not see if he had hit anyone. He did not know any other soldier who was there firing. As he said, it was a manic situation, it was dusk and there was debris

around. He thought fire was coming three ways: from the waste ground, from New Barnsley and from Moyard. He also remembered taking in some of the bodies. He thought he recognised a woman who was brought in dead as he thought he saw her earlier in the day shouting outside the Hall. He thought she looked like his mother-in-law but he could not be definitive and he said there were lots of women out at the Henry Taggart Hall.

[119] M97 could not recall any formal debrief or being asked to make a statement and he did not recall making any report at the time as he said things were happening quickly and he was rushed. Regarding seeing Mr Bryson he said he thought he told the platoon commander but there was no record. This witness marked where he was shooting at on a map.

[120] Unlike M97, M249 gave evidence that he had not fired a weapon at all when in Northern Ireland. He provided a statement of August 2018 because he was at Henry Taggart Hall. He said he never saw any gunmen but he could hear gunfire directed towards Henry Taggart Hall. His main evidence was that he took ammunition to the Hall - this it was suggested meant he was Soldier D, which he denied. M249 also recalled M910 being injured when in the Hall. He said he was a lance corporal in Drums Platoon B Company 2 Para. He gave some other general evidence that there was a radio in the sangar and that there was shooting sporadically during the day including when he went out on patrol.

[121] M157 never fired a weapon he said and could give no direct evidence of events relating to the deceased in this incident. Similarly, M140 a private, did not recall shots being fired by him or others.

[122] M282 was a private in 6 Platoon, B Co, 2 Para. In addition to evidence of logistics he also gave evidence to me in relation to gunfire on the night in question and collection of the bodies. He thought the first gunfire was between 5:00 and 6.00pm when he was making his way between the school and the Hall. The bulk of

his evidence was about recovery of the bodies. He said he did not see any weapons or shell casings on the two bodies located, who were a man and a woman. He said in evidence that shell casings were subsequently found in the hedgerows although I did not think this was particularly convincing given its late introduction and it does not coincide with other evidence. He said the woman had injuries particularly to her leg and he positioned her at the gable end of a house just in front of the hedgerow which was just a foot from where he found her. He said the man was in his 30s or 40s and cold to the touch. He was with M113, on foot he said. He also said there must have been a debrief but he could not recall. He also said that the four man retrieval group followed and he did not communicate with them. M113 gave evidence by video link. He had no recollection of any shooting on 9 August 1971 or of any bodies being recovered.

[123] M1374 was also a private who was in Henry Taggart Hall when he heard gunfire that night. He also recalled M130 saying "do not fire unless you identify the gunman." He recalled M130 carrying a woman into the hall and other casualties coming in. He could not actually see the waste ground himself. He also thought there was gunfire coming from Springmartin. He did not fire any shots he said or see any soldier fire shots.

[124] M156 was a private and a member of the Drums platoon. His evidence principally related to M910 being struck within the Hall which was by way of ricochet. He obtained treatment for him. He referred to some rumour about a woman being shot after she tried to pick up a submachine gun but he could not say where that came from.

[125] M118 was the chaplain for 2 Para in 1971. There were two, a Catholic and a Protestant. M118 was an Anglican. He had previously been contacted by HET in 2011 and said he recalled going to the Hall with General Howlett. This was after the shooting he said, he was asked to go up onto the roof to find a missing soldier and he felt scared about that. He recalled a telephone call with a civilian priest who was

asking for the shooting to stop. He had no knowledge of the dead in the Vere Foster School, he only recalled helping two civilians at a wall outside the Hall get medical attention. He categorically denied the suggestion put to him that people in the Hall were abused by him or by the Catholic priest Fr Weston.

[126] M132 provided a statement of 4 September 2018. He was a Regimental Medical Officer with Headquarters. He provided an account to HET in 2010. Overall, he said medical facilities were limited on the ground. He said his job was really to assess, treat and get the injured to hospital if needs be. He knew Mr Mumford who he said was relatively inexperienced. He had no real recollection of being in the Hall. He expressed sincere condolences, said that he could not assist much further and that he had not seen or treated anyone killed. He was in contact with one soldier, lightly injured and a civilian who he later became aware was Gerard Russell.

[127] M284 was a Private, radio operator in Vere Foster School – he had no direct recollections.

[128] M910 was the soldier who was injured in the base. He gave evidence to confirm this although he was uncertain of exact details including the time he was injured. M916 confirmed the injury and medical treatment.

[129] M1294 was on sentry duty in the sangar outside the Hall in the afternoon of 9 August. It appears that he was relieved later on but he did give evidence of the earlier events outside the Hall, which involved an angry crowd of 100-150 throwing objects. He said he did not fire his weapon that day or during any of his tours of Northern Ireland.

[130] Two RUC witnesses also gave helpful evidence to me, Mr John Jackson and Mr Rolf Crawford McGookin. These witnesses made depositions in 1972 about events. They were both stationed at Andersonstown on the day in question.

Mr Jackson said he could recall rioting at the Springmartin Estate/Springfield Park and an interface confrontation between Catholics and neighbouring Protestants in the area. He said there was an uncontrollable crowd of some 200 people and only two policemen. The military took control and he heard a number of shots but did not see any gunmen. He also saw rioting outside the Henry Taggart Hall.

[131] M1438 provided a statement to CSNI in January 2019 and he gave evidence. He was a signaller attached to B Coy at Henry Taggart Hall. He said the sangar at the front of the Hall was riddled with bullets as it was under fire from early afternoon. He explained that he was operating the radio between patrols and passing on messages. He described a fairly chaotic scene in the Hall due to all of the activity. He actually told me that he tripped over a body when going to the toilet. He said the treatment of those interned was rough but not untoward.

[132] M572 was in the Hall, having gone over there in riot gear. Once in, he again described soldiers standing on benches. He said about 8pm shooting started immediately in front of them then later from waste ground. He did not fire a single round. He said he thought he went out later with the other soldiers to retrieve bodies. Other than that he did not have a strong recollection of events.

[133] M553 had no strong recollection either of specific events. He was a private and member of Drums Platoon and he simply recalled the order to take cover for what he said was 20 hours while shooting went on. He provided a statement of 2 April 2019 and had previously been interviewed by HET in 2010. He said he never fired his weapon and did not see anyone fire and he accepted that he had been subject to disciplinary action in relation to other matters. He disputed an assertion made in a previous statement for another case that he was "involved in the battle of Ballymurphy." He said he was in the Hall and that was it. An account given by this witness was not accepted at a previous inquest and so credibility issues were raised.

[134] M283 provided a statement to CSNI in August 2018 and had previously spoken to HET. He was a private who could not recall anything.

[135] M506 gave evidence to me. He said he was in the Hall but primarily he was on one of the sangars on the roof of Vere Foster School. He did not fire himself but he said he saw soldiers fire at the Manse. He thought there was fire between Loyalists in Springmartin and a crowd in Ballymurphy. He described the soldiers as showing "great restraint." Other than that, the witness was quite confused about the sequence of events which therefore cannot be relied on.

[136] M574 was inside the Hall and gave general evidence about it. Of more import was his examination in relation to SIB statements and whether he was D or I. He recalls making a statement but denied being either soldier and I cannot take that much further.

[137] M1292 was an escort in the ambulance carrying casualties but he did not recall them having gunshot wounds and so he had little to add. His evidence was admitted under Rule 17.

[138] Some of the military witnesses also gave evidence that was critical of the army and specifically the Parachute Regiment. Of particular note in this regard is the evidence of M597, Nigel Mumford and Henry Gow which I will now consider, bearing in mind that the next of kin have made a case that there was endemic brutality displayed by the Army.

[139] M597 was a member of A Company of 2 Para based at a TA Centre at Sunnyside Street. His evidence of specifics centred around another incident in which he said his commanding officer did not support him. He effectively said that there was a culture of covering up within the regiment and that included covering up killings. M597 also made a statement that an adjutant, M226, had said about the shooting of the petrol bomber in the other incident "the only mistake you made was

not killing the ...” I recalled M226 to get his version and he denied making this statement and he convinced me that it was not a credible point. M597 did not really add much of value for me.

[140] Mr Nigel Mumford gave more substantial evidence. It is fair to say that credibility issues arise from his evidence, which I will summarise. Mr Mumford was a medic from 23rd Parachute Field Ambulance attached to 2 Para B Company. He provided a statement for CSNI and he also provided some evidence in relation to a book he has written ‘Who Cares Who Wins’ about his experiences in the Parachute Regiment. It is clear from this and YouTube videos that Mr Mumford has a media presence which he uses to share his perspective on the overall conduct of the Parachute Regiment. He was also questioned about his own treatment of the injured/deceased, particularly Mr Murphy who it was alleged he had mistreated and essentially contributed to his death. He denied being Soldier M who is described as the medic and he in fact said he had never made a statement to the RMP. He said he was a medical assistant, with poor training but effectively he did his best. He said there was brutality towards civilians in the form of them having sandbags put over their head and being pushed, kicked and generally physically beaten and abused. He said General Howlett knew about this and stood by. I pause to observe that General Howlett said this was all nonsense made up to sell books.

[141] Mr Mumford said he was the first person shot at that day outside the Hall. He said that he shouted “Up the IRA” and “by the neck” towards the rioters and that produced a reaction from the crowd. He said he fired two shots in the air and ran back inside. When questioned about divergences in his evidence and the book and what actually happened he bizarrely said the book was wrong because he was in Tahiti and a French man stole his notebook. This story speaks for itself and stretches all credibility to the limit. His evidence also veered into sensational general comments rather than specific facts I could rely on. He also tended to laugh hysterically in evidence particularly by way of example when it was suggested that the padre had engaged in brutality.

[142] In his evidence Mr Mumford also explained the treatment he gave to the injured and denied he did not do his best. He said he was asked to plant ammunition on a body but when asked by whom he could not give a name and he could not explain why he did not put this in his book. Specifically he rejected the suggestion that Mr Murphy was shot in the leg in the Hall or that he bore a share of the responsibility for the death. As the evidence continued I became more and more convinced that Mr Mumford is not a reliable witness and that it would be unsafe for me to rely on anything he said. Overall, his sensationalist style of answering and confrontational/argumentative attitude did nothing to impress me or make me think that I could disaggregate parts of his evidence upon which I could rely. That also means that I do not accept his evidence of denial that he is Soldier M, the medic. All of the evidence points to him being Soldier M and it is ridiculous to suggest otherwise.

[143] Mr Henry Gow is a former military man, now a barrister. He also attended in person to give evidence to me. This man also published a book in 1995 entitled 'Killing Zone' about his experiences in the Army. In August 1971 he was a member of A Coy 2 Para. He had limited involvement in the events, he certainly did not witness any shooting and his role appeared limited to escorting a resupply of ammunition to the Hall. He did however make allegations of a more general nature against the Parachute Regiment and it was this he was primarily asked about. He made highly charged comments about Parachute Regiment behaviour which included information of an extremely distressing nature about another deceased man. He described an uncaring and indiscriminate culture which involved soldiers effectively gloating about death. I find his accounts hard to believe. His demeanour in the witness box was dismissive of any challenge. I think this man has highly exaggerated military bravado and that is irresponsible on his part and not something which assists me in this inquest. That is not to say that some military behaviour was inappropriate as I have already said and will refer to this in my conclusions.

[144] M155 was a Private in B Company. He was a bodyguard for M45 who was the commanding officer. He recalled gunfire at the front of the Hall coming from opposite it and Ballymurphy but he did not see anyone shooting. He was part of the mobile retrieval group who went to the Manse in a vehicle. He saw Mrs Connolly but did not know where exactly she was and he saw a male casualty by a tree.

[145] M1434 said he was the driver of the vehicle that went across, as he said reversed in, and then recovered the bodies.

Rule 17 witnesses

[146] Other evidence had to be admitted under Rule 17 due to the witnesses being unfit or deceased. Also in some cases evidence was attempted. That was the case for M151 who tried to give evidence; the attempt was jettisoned when his incapacity became clear. Some prepared answers were then read in as he was the Company Sergeant Major. Also, unfortunately, M12 who was the Company Commander of Support Company was unable to give evidence either. A statement was available from him dated August 2018. In that he said that Soldier D may be him but he could not be sure. This evidence is of more relevance to Incident 1. M32 was a Lance Corporal with B Co. He also could not give evidence due to a serious head injury from 1992. In a previous account to HET he said he had fired shots on to the waste ground.

[147] M150 is deceased – he was a Private, 19 years old, in the Hall who said in his note from HET that there was rioting outside the Hall and shots fired at it from early evening but he did not fire. M142 was a sergeant who HET thought was Soldier C but he died in December 2014 so no evidence is forthcoming from him. M138 was a Corporal in 4 Platoon B Company. He referred to an attack on soldiers on the roof of the school sangar. He said that he fired directly at gun flashes which he could clearly see past the HTH on the other side of the Springfield Road. He was unable to say if he hit anyone. M270 did not have direct involvement in events. His statement

referred to two factors, namely a rumour that the IRA Ballymurphy Unit were trying to get an attack going on the base and that there was Loyalist paramilitary activity in Springmartin. M170 was also in the Hall but did not see anything. M750 referred to the crowd outside the Hall who were rioting all day and that soldiers had to avoid missiles. He said this started in the morning after the arrest operation. He was struck by a lump of concrete for which he needed medical treatment and as he was receiving that he heard shots but he did not see anything.

[148] M505 was a Signals Officer. His evidence was also admitted under Rule 17; M505 lives outside of Europe. He provided a statement to the Coroners Service before disengaging entirely from providing any further assistance. He was a 19 year old private on 9 Aug 1971. He was in what appears to be the Hall with eight or 10 other soldiers who were all positioned at the narrow windows which were high up on the wall. He said that when incoming gunfire became heavy the soldiers were ordered to return fire. They were told to fire in the direction of gun flashes. He said he does not know who gave the order. He did not know how many soldiers returned fire. M505 fired around 20 rounds from his SLR, changing the magazine once. In his statement M505 does not deal with whether or not he believes he hit anyone. He did not make an RMP statement.

Ciphered Soldiers

[149] I also received the evidence contained in the statements filed by ciphered soldiers A-P. The difficulty with this evidence is that it is unknown whether the soldiers are deceased and so the evidence was admitted at common law. In their written submissions the MoD have also referenced a number of soldiers' statements from other inquests under the heading HET Central Criminal Records and Information Office ("CCRIO") Soldiers. I have considered these as follows:

Ciphered Soldiers and [HET CCRIO Soldiers]

Soldier A

This soldier provided two depositions at PSNI5 p2-12 and an RMP statement p13-17, all of which appear to contain the same narrative. This may be M130, who is deceased. He went into the waste ground to see if anyone had been hit or any weapons found but he did not identify with any specificity where the injured were found. No weapons were recovered from the waste ground and no explanation is offered as to why. It is perfectly arguable that Soldier A was obliged to avoid speculation.

Soldier B

This soldier provided two depositions at PSNI5 p18-21, and an RMP statement p22-23.

He ran out to the front of the hall and took up a position in its south east corner. He recorded that he could see muzzle flashes from "some 5 or 6 weapons" positioned around the wasteland in front of and slightly left of his position on the other side of the road. He saw a man running across the wasteland carrying a rifle. He fired two rounds of 7.62 from his SLR and the man dropped to the floor and lay still. A man ran out of the bushes and grabbed the rifle then ran back into the bushes. Throughout this period, they were being fired upon from front, right and left.

Soldier C

Soldier C provided a statement to be found at PSNI5 p24-38. He records having noted four gunmen initially. The first gunman fired from the area between Nos 3 and 5 Divismore Park, with a second firing from New Barnsley, with one round returned at this second gunman. Heavy volume fire came from a gunman on the roof of a garage at the side of 21 Divismore Park. Soldier C said he fired one round at the third gunman and hit him, knocking him off the roof. A second man (the fourth in total) climbed on to the roof and fired at him. Soldier C fired two rounds at him and saw him fall off the garage roof. He said he then heard a number of weapons being fired from somewhere to his left and front [of the Manse]. The sentries returned fire. Soldier C said he moved forward in front of an APC to see what his sentries were firing at. Soldier C changed weapon to a .303 rifle (which he said he borrowed from Soldier O) with a telescopic sight. Once in the forward position, he said he shouted for his section to "pick their targets and not fire as rapidly as they were doing."

He then saw a man kneeling in grass in the centre of wasteland with a rifle. He saw flashes and fired two shots after seeing flashes. The gunman fell forward. He then saw another gunman with a light calibre weapon kneeling behind a tree stump firing at a forward sentry post. He immediately fired three rounds at the man and can't say if he hit him or not but the firing stopped - "in all probability I did hit him." Then he saw what appeared to be a man standing near the east side of the waste ground. This man was firing in the standing position armed with a

pistol of the semi-automatic type. He saw this man knocked back across the fence obviously shot. His men were still firing at a gunman in the south west corner of the waste ground who was firing back with single shots. The person knocked back over the hedge stood up and continued firing at the Army. This person was hit again in the exchange of fire from the HTH as the person dropped back out of sight alongside 692 Springfield Road behind the hedge. Soldier C states that his men were shouting at him that persons were crawling forward along a gully and taking weapons from the men they had shot.

Soldier C said then that at about 2205 hrs his section went into the wasteland under the platoon commander (Soldier 'A') and recovered five men suffering from gunshot wounds. Soldier C does not say whether he went along on this mission himself but it was at this point that it was discovered that the person firing the pistol who had been knocked over the fence and then shot was in fact a woman whose body was brought in later. By the time a military ambulance arrived at 2325 hrs two of the wounded men had died. The injured were conveyed to the hospital. He made a check of his men and ascertained that a total of 106 rounds of 7.62mm, 6 rounds of 9mm and 5 rounds of .303 had been directed at the gunmen to the front of the hall.

Soldier D

Soldier D provided a statement appearing at PSNI5 p39-50. This soldier took part in the arrest operation in the early hours of 9^h August. At 1600hrs he took up duty at the forward observation post near the front gate accompanied by a member of 2 Parachute Regiment. Rioting had been ongoing during the course of the day and afternoon. He was present in the observation post with Soldier I. He had to run through a hail of bricks to reach the sentry post. He was relieved at 1630 hrs but back to the sentry post at 2000 hrs. A number of shots were fired from Springmartin Road area but not at the Army position. It is more than possible that this was shooting from Loyalists. There was a crowd in the area numbering about 200 by this stage stoning and petrol bombing the Hall. There were also rival (Loyalist) crowds in the vicinity of Springfield Road/Springmartin Estate.

By 2050 hrs, a crowd of men from Ballymurphy ran across the Springfield Road towards Springmartin Road. As large crowds of Protestants were reported in that area, he fired CS gas at the crowd. The crowd disappeared behind houses in Springfield Park. A few minutes later Soldier D heard a number of bursts from automatic weapons and single shots. It was not possible to say who was firing at whom. The Ballymurphy crowd started to drift back from Springmartin Road and he overheard two girls shouting that somebody had been shot. He assumed the person shot was amongst the Ballymurphy crowd.

About 10 minutes later the crowd moved off the Springfield Road into Divismore Crescent, out of sight. At this point the military came under heavy fire from about six automatic weapons positioned one along to the right on the Springfield Road behind a barricade and about four to the front in the Manse. The gunmen were positioned behind bushes at the forward edge of the wasteland and at the back corner in the trees. A weapon was also being fired from somewhere to the left in Springfield Park. He returned fire at the waste ground to his front. The shots were aimed at muzzle flashes across the wasteland. He fired 12 rounds from his SLR hitting about three of the gunmen. Soldier I also returned fire at the same time as did the remainder of his section from both inside and outside the Hall. Owing to the darkness he was unable to recognise any of the gunmen nor can he say with certainty the exact position he shot them. The gun battle lasted about 15 minutes before the gunmen ceased firing. It was then that he saw two persons lying on the waste ground. He saw a man run out from bushes and take a pistol from the body lying in the open ground. This person ran into a corner near to 81 Springhill Crescent. He describes this man as wearing a light-coloured denim jacket. He also sees two of the men he had shot at the far edge of the waste ground being dragged away by other people in the darkness. He was not able to describe the two gunmen. He could hear further shots but did not return fire. Five injured people were then brought in from the waste ground by the platoon commander. He did not see any of these injured people. He estimates that 500 shots were fired at the

Army position, but he was not in a position to say how many shots the Army fired.

Soldier E

Soldier E provided a statement found at PSNI5 p51-56. At 2105 hrs he was on duty inside the Henry Taggart Hall when it came under attack by armed gunmen. He moved outside and took up a position behind an armoured vehicle. Other members of his platoon were returning fire. He saw a gunman positioned beneath some bushes on the forward edge of the wasteland. Fire was being directed at his position, so he fired five rounds from his SLR at the gunman. He cannot say if he hit anyone. A few seconds later he saw an elderly man running across the open ground armed with a rifle. He was running from right to left. He fired three rounds from his SLR (7.62) and the man dropped to the ground. Other soldiers were also firing at the line. A few moments later he saw the figure of a woman near to the gable end of 692 Springfield Road standing behind the bushes armed with what he thought was a pistol. He fired two rounds at the woman and she fell to the ground behind the bushes near to the houses. About 10-15 minutes later, he said, all firing stopped and he could see a number of men lying about the ground where he had been firing. He accompanied the platoon commander in an armoured ambulance to the waste ground. There he recovered the body of an 'elderly' man who was lying face downwards in the centre of the wasteland. The man was conscious. He cannot say if it was the same man he had shot. Five

men in all were recovered from the wasteland suffering from gunshot wounds. All were taken to the Henry Taggart Hall to await the arrival of an ambulance. Later he also accompanied the platoon commander to the side of 692 Springfield Road, where they recovered the body of a woman whom he had shot when he saw that she was armed with a pistol. No weapons are mentioned as having been recovered.

Soldier F

Soldier F gave a statement at PSNI5 p57-63. At 2105 hrs he was inside Henry Taggart Hall when he heard gunfire. He took up a position near to the main door. Fire was coming in from six or seven different locations, which are not specified. He saw a man crouching in the middle of the Manse with a weapon. This man fired at Henry Taggart Hall and Soldier F fired one round from his SLR. He cannot say whether he shot this man but the man did not return fire. This shooting continued for around 15 minutes.

Soldier G

Soldier G has a statement at PSNI5 p64-69. This soldier was in the Henry Taggart Hall at 2100 hrs when he heard the sound of gunfire. He took up a position at the forward right hand side of the building. The fire was

being directed at the building from a number of different positions to the front and side. He saw muzzle flashes coming from the waste ground in front of the hall and slightly to the left. The flashes were coming from at least two different locations in bushes bordering the far side of the waste ground. He saw a man break cover from the bushes and start to run across the wasteland. He fired two rounds from his SLR, and the man fell to the ground. Within minutes he saw another man who appeared to be balding slightly get him to his feet and attempted to run back across the open ground. This man was carrying a rifle. Solder G fired 7 rounds from his SLR. The man dropped to the ground and lay still. At this time there were a number of people running about the waste ground being fired upon by soldiers. All the persons running about were firing weapons.

Soldier H

Soldier H provided a statement PSNI5 p70-75. At 2105 hrs he was in Henry Taggart Hall when he heard automatic gunfire directed at his location from the Ballymurphy estate. He took up a position behind an armoured vehicle in front of the Hall. The fire was coming from a number of weapons from positions within an area of waste ground immediately to the front and slightly left. He directed his attention along Springfield Road towards Springmartin estate as a gunman had been reported in that area. Members of his platoon were returning fire. He then saw a man behind a concrete lamp standard in Springfield Park near the junction with

Springfield Road. He saw he was armed with a Thompson submachine gun. He immediately fired two rounds of 7.62 from his SLR, but did not see what happened to the man as he immediately regrouped inside the Hall.

Soldier I

Soldier I gave a statement at PSNI5 p76-87. He took part in the arrest operation in the early hours of 9 August 1971. Rioting took place during the course of the morning and the rest of the day. There was a crowd of about 200 involved. By about 1600 hrs he had been joined by Soldier D in the forward observation post overlooking Divismore Park. The crowd were standing at the junction of New Barnsley Park and Springfield Road. Barricades had been built across the Springfield Road about 20 yards on the Turf Lodge side of his position. A second barricade had also been built 20 yards from Divismore Way and Springfield Road. The barricades were constructed of paving stones. About 80 petrol bombs had been thrown throughout the day. Both he and Soldier D were relieved at 1600 hrs and returned to the observation post at 2000 hrs. A large crowd of Protestants had gathered in the area according to reports and at 2045/2050 hrs the Catholic crowd ran towards Springmartin. He fired a number of CS gas cartridges at the crowd.

A few minutes later he heard shouting and screaming followed by a number of shots from the wasteland. He

could not see the crowd from his position and therefore could not say who was firing or in what direction. About five to 10 minutes later the Catholic crowd returned to his location and he heard two women saying that someone had been shot. He understood that they had been talking about someone out of their own crowd. Suddenly the crowd dispersed from the front of his location and the area became quiet. It was obvious to him that the Army were about to be attacked by gunfire.

About five minutes later, he said six gunmen opened fire at his location. One gunman was firing at the soldiers with a Thompson submachine gun from behind a barricade at Divismore Way. Another gunman was firing from somewhere in Springfield Park and the remaining four gunmen were positioned on the waste ground to his front. He could see the muzzle flashes from four different positions in that location. This witness describes the concentration of fire as "quite considerable" and he immediately returned the fire by firing 13 rounds of 7.62 from his SLR. He fired aimed shots directed at the muzzle flashes and he is certain that he shot at least two of the gunmen. The remainder of his section along with Soldier D was also firing. A heavy concentration of fire was directed at the gunmen to the front of the waste ground.

"Owing to the darkness" he cannot say where in fact his shots went except that he shot one of the men in the back who had run out of the bushes and picked up the weapon used by one of the gunmen that had been shot.

Eventually, when the shooting stopped he saw about three bodies lying still in the waste ground. He later learned that his platoon commander had removed five bodies. He cannot give descriptions of men he shot except they were all armed.

Soldier J

Soldier J gave a statement at PSNI5 p88-91. He said he was normally accommodated in Henry Taggart Hall. He had been in the Springfield estate until 1320 hrs when he went back to the Hall, which was being attacked by petrol bombs and a water cannon was in use. He was then in position in front of the Hall. At 2100 hrs he saw movement in the bushes at the left of the waste ground opposite. Shots fired from that position and bullets hit our armoured car. He saw flashes of the firing weapons and an outline of a person standing near the bushes. His location came under heavy fire with most of it coming from the waste ground. He fired five aimed shots from his SLR at the person he could see in the bushes; then he saw this person clutch his lower body and fall to the ground so he was sure he registered a hit. He lost sight of him, then heard the order to stop firing. A patrol went out later to check on the waste ground but nothing found near the bushes where he had directed his fire.

Soldier K

Soldier K provided a statement at PSNI5 p92-97. He records that at 0900 hrs the first petrol bomb was thrown.

He said this continues in morning and afternoon, when CS gas and rubber bullets were used as a means of crowd control. At about 2050 hrs he said he was outside the Hall when he heard the sound of gunfire coming from Springfield Road/Ballygomartin area. It was small calibre and not directed at the soldier's position. About five minutes later he saw a crowd return from the Springfield Park area back to the front of his position.

At about 2100 hrs they came under a constant attack from about 10 weapons being fired at them from Springfield Road and Springfield Park, with the larger number being located on the wasteland in front of and slightly left of his position i.e. the Manse. He took cover behind an armoured vehicle parked in front of the Hall. As other members of his section were returning fire, he said he saw a man armed with a machine gun firing at them from behind a hedge nearest the Springfield Road on the waste ground. He immediately fired four rounds of 7.62 from his SLR and the man dropped to the ground.

He then changed position and saw a man armed with some form of gun lying behind a lamppost in Springfield Park. This man was firing single shots at his position with a semi-automatic weapon. He fired another four rounds of 7.62 at the gunman. He cannot be sure if he hit him but the firing stopped. He is unable to say what happened to the gunman as he was recalled inside the Hall. He later saw the armoured vehicle go to the waste ground and return with five men suffering from gunshot

wounds. He estimates a total of between 500 and 600 rounds were fired at the military from the gunmen.

Soldier L

Soldier L provided a statement at PSNI5 p98-103. He records that there had been rioting throughout the day by a crowd of about 200 people gathered outside the Hall. At about 2100 hrs, he said, the military came under fire from a large number of automatic weapons located somewhere to his front and slightly left. He took up a position inside the Hall, sighting through an open window. He saw a number of persons "crawling along the ground" armed with an assortment of weapons. He could see muzzle flashes from a number of locations and saw a woman dressed in a coat crawling through the grass at the far edge of the wasteland. She was firing some form of pistol towards the military. As he was watching her he saw her drop violently to the ground as though she had been shot. The woman then got to her feet and started to run towards the nearby hedge. He then fired one round of 7.62 at her from his SLR and saw her thrown over the hedge. At this point the remainder of his section were putting down a heavy barrage of fire. He then saw a man armed with a rifle and dressed in a donkey jacket crawling towards the military position through the grass. He fired one aimed shot at the man and saw him fall to the ground. Other soldiers were firing at him. He did not fire any more rounds and returned inside the Hall once the firing had ceased.

Soldier M

Soldier M gave a statement at PSNI5 p104-120. He is described as an NCO and a medical assistant in Vere Foster (when Soldier A brought in five casualties.

- (a) Daniel Teggart, 45 years old, hair balding brown, 5'6", blue terylene suit, striped shirt. Casualty stated thought he had been shot by Protestants and crossing a field when shot. Died 2240 hrs. When he removed his dark blue trousers he placed them on the floor beside him and did not search them.
- (b) Noel Phillips, about 20 years old, shoulder length brown hair, 5'8", white denim jacket, blue jeans.
- (c) Gerard Russell, about 28 years, ginger shoulder length hair, moustache, 5'8", green trousers, donkey jacket. Track suit top. He stated he was gunned down from behind by members of the IRA whilst he was watching the Army get shot at.
- (d) D Callaghan, about 53, hair balding brown, 5'6", work clothes, stated on his way from work and was innocent.
- (e) Joseph Murphy, 45 to 50 years old, brown hair, 5'1", blue jumper, corduroy trousers. Before losing consciousness said he did not know who had shot him.

- (f) Joan Connolly around 0315 hrs. 35 years old, ginger shoulder length hair, 5'3", blue specked coat, dark shirt, pale blue jumper. Gunshot wound left hand thumb.

He said that had an ambulance been allowed to arrive when requested there was a good chance that Mr Teggart and Mr Phillips would have had a better chance but could not arrive due to gunfire in the locality.

Soldier N

Soldier N gave a statement at PSNI5 p121-126. He was on duty at 2359 hrs in the Hall. He carried out a search of clothing to establish identities and on searching a pair of dark trousers removed from Daniel Teggart found 38 rounds of .22 ammunition, which he gave to the SIB sergeant [M26].

Soldier O

Soldier O provided a statement at PSNI5 p127-133. At 2100 hrs he heard the sound of heavy firing coming from the Springfield Road area about 200-300 yards away from his position. He ran outside and took cover behind a water cannon vehicle. He saw smoke coming from a piece of waste ground about 300 yards away on the other side of the Springfield Road. A few minutes later he saw the figure of a man crouched behind a tree stump and wearing a dark jacket firing a rifle in the direction of the Hall. He fired one round from his .303 'sniping rifle' and

was not sure if he had hit the man due to the concentrated power of fire but immediately saw him slump down onto the tree stump and the firing from the position stopped. At this stage Soldier C borrowed his sniping rifle and fired two rounds from it but he was unsure whether he had hit anyone; although he said he had scored two hits on different gunmen. He then gave the rifle back.

A gunman firing from a white 1100 car positioned on the right-hand side of the road and to the right of his position was then pointed out by Soldier Q. He did not fire back as he could not get a clear view of the gunman after changing position. He then reverted back to his original position behind the water cannon vehicle and heard someone shout that firing was coming from the petrol garage situated directly across the Springfield Road from the Hall. He looked across (although he is imprecise about where to) and saw a gunman firing from what sounded like an automatic weapon at the Hall. He fired one shot from his rifle after which the bursts of shooting from the garage stopped; although he does not know if his shot hit him. He did not fire any further shots that night.

Soldier P

Soldier P has a statement at PSNI5 p134-145. He took part in the arrest operation in the early hours of 9 August 1971, which was completed at 0520 hrs of that morning resulting in 18 persons being detained. He describes leaving the Vere Foster School and going to the Henry

Taggart Memorial after hearing of a crowd gathering there. On arrival he saw a crowd of about 200 people, mainly women and children, in Divismore Park. This crowd moved onto the Springfield Road and started throwing stones, bottles, bricks, pieces of broken paving stones and petrol bombs at the military personnel. He also describes youths and men constructing two barricades across the Springfield Road opposite 637 and 659 Springfield Road. The stoning and petrol bombing continued and at 0935 hrs approx 300 shots were fired at his position from two automatic weapons, one located immediately to his front in Divismore Park, the other in or near 11 New Barnsley Parade. One of his men fired a shot at a gunman in Divismore Park. Attacks from the crowd continued throughout the morning and afternoon from stones and petrol bombs during which time 38 rubber bullets and 11 CS gas cartridges were fired and during the afternoon a water cannon was brought into operation.

At about 1800 hrs the crowd dispersed and he returned to the Vere Foster School. At 2103 hrs he heard a heavy concentration of fire coming from the direction of the Taggart Memorial Hall and it was reported that the Hall was under attack from a number of gunmen from the area of open ground on the north side of Divismore Park. It was also reported that his men were engaging the gunmen. The engagement lasted 10-15 minutes. During the attack the Vere Foster School came under fire from one of the flats at 21 Moyard Park where two gunmen were firing, one an automatic rifle and one a rifle. At the

same time a rifle was also being fired from the same block of flats in the direction of Springmartin. Fire at the school was also coming from Springmartin and the Moyard Parade area.

He ordered three men on the school roof to engage the gunmen in 21 Moyard Park. A short gun battle ensued between his men and the gunmen and after a short time the latter ceased firing. During this exchange he could hear shots from the area of Springmartin, some of which were directed towards the school and others in Moyard. Although firing from automatic weapons could be heard from the Ballymurphy area all shooting directed at them ceased at 2148 hrs until 2237 hrs when fire from a .22 weapon and a high velocity weapon was directed at the Vere Foster School from Moyard Parade. As a result of this attack one soldier was wounded in the right upper arm. Five shots were heard at 2323 hrs but were not directed at this location nor was their source identified. Sporadic firing continued from Ballymurphy until approximately 0200 hrs on 10 August 1971, when all firing in the area ceased. This shooting was not directed at this location. At 0555 hrs the body of a man was seen lying on the balcony of 21 Moyard Park. Two unknown civilians came to the school gate to report that three bodies including that of a friend were lying in houses in Moyard Parade. This was 0600 hrs; a civilian ambulance arrived at 0655 hrs and collected a body from 38 and from 46 Moyard Parade. During the morning of 10 August SIB arrived and wished to view from the school roof the position where the priest was killed, marked with a black

flag. The priest was killed on the waste ground behind and between 80 and 82 Moyard Park. It was apparent that the sentries were unable to see or shoot into that area as in one case the view was obstructed by trees and in the other by a block of flats. The only position in the whole school from which the black flag could be seen was some three yards north east of the southern exit from the school. At no time was a soldier on duty at this door as it was totally unnecessary.

HET Soldier 1 [CCRIO file Soldier A]

This soldier had been on duty at Vere Foster. At 2020 hrs the building was fired upon from the general direction of Springhill Crescent about 200m south east of his position. He left the building and went up to the roof sangar on the extreme south east corner of the school building. His aim was to direct the fire of the sentries located on the school roof and the ground sentries who he subsequently positioned.

From about 2020 to 2030 hrs the school came under fire from three points:

- (a) Springhill area;
- (b) A long range rifle from Corpus Christi Church: the fire from Corpus Christi was of a heavy calibre high powered rifle. In all, seven rounds were fired from the Corpus Christi Church.

- (c) The block of flats running in a north/south direction adjacent to Moyard Park. The rounds fired from the Moyard areas came from a heavy calibre automatic weapon like a Thompson .45 SMG. Around 50 rounds fired in bursts and single shots.

Shortly after his arrival he called B (HET Soldier 2) to join him and C (HET Soldier 3) who was already on the roof. He located D (HET soldier 4) and E (HET Soldier 5) in a roof gulley running in a northerly direction from his position and about 20 metres away from him. He was not able to locate the firing from the Springhill area.

As a one ton APC left the Hall south of his position, and travelled along Springfield Rd to Springhill, he saw three men moving in the area of some waste ground on the southerly side of the right hand bend about 100m from the Hall. "I am convinced one of these men was armed" as he saw him firing towards the APC as it left the Hall grounds.

Soldiers 3 and 4 and he each fired two aimed shots at the man carrying the weapon and after his second shot he saw him fall; he cannot say if he was hit or had taken cover. After the shots were fired, the APC arrived at the point where the three men had gone to ground. He ordered cease fire and kept the three men under observation until they were brought back to the HTH.

He then turned his attention to the Moyard Park flats and saw muzzle flashes from the veranda of 21. He fired three aimed shots after which the firing ceased. Soldier 4 called to say a man was firing from the northern side of the veranda on the same floor. Soldier 4 was ordered to engage and he did so with Soldier 5. After a few seconds of the engagement no further firing came from this flat. Firing then came from the northern side of the flats at 80 Moyard. No fire was returned as the gunman could not be seen; he said that no shots were fired from the Finlay Factory area during the night.

HET Soldier 2 [CCRIO file Soldier B]

He was based at Vere Foster School (VFS). At 2020 hrs VFS was fired on from Springfield Crescent area. He took up a position in a sangar with soldier 1 and 3.

He saw firing coming from the waste ground on the southerly side of a right hand bend in the Springfield Road about 100m from HTH. He saw between three and six men taking cover behind trees and bushes and lying in a gully in the waste ground. All of these men were firing in the general direction of the VFS and HTH using automatic weapons on both burst and single shot.

One man was behind a tree on the waste ground and was revealing himself at intervals to fire towards our position with an automatic weapon. He fired two bursts of about 20 rounds altogether. As he appeared on a third occasion Soldier 2 fired five aimed shots in quick succession at

him. On the fourth shot he staggered but did not fall. He then fired the fifth shot and the man fell and no more shots were fired from this man's position. The rounds fired by Soldier 2 were 7.62mm from an SLR.

Shortly afterwards the APC left the Hall and went to where the men were located on the waste ground. He said "I am aware that" the personnel in the AFC brought a number of dead/wounded from the waste ground to the HTH but did not see them before they left the HTH.

Shortly after their position came under fire from Moyard flats and specifically the veranda of the upper flat of No. 21. Soldier 1 instructed him to engage the gunman and he fired approximately five 7.62 rounds at gun flashes from behind a dustbin on the veranda. Soldier 1 also engaged the target and the firing from the veranda then ceased; he does not know how many rounds Soldier 1 fired.

Almost immediately, Soldiers 4 and 5 engaged a gunman firing from a window next to the veranda at which he had fired. He saw gun flashes from the window but neither Soldier 1 nor he fired at this target. After the target was engaged by 4 and 5, the firing ceased. He does not know how many rounds were fired at the flat window. He left the sangar around 2200 hrs to go to the main school. About an hour later he was injured when a round fired from the west of the school passed through a window on the western wall. He received a slight injury in the rear of his right upper arm. He went to the RVH for treatment.

His statement is dated 11 August 1971.

HET Soldier 3 [CCRIO file Soldier C]

At 2020 hrs he went to the roof sangar on the SE corner of VFS. Soldiers 1 and 2 were present. As he arrived, the sangar came under fire from some waste ground to south of Springfield Road about 100m west of the Hall.

He saw four or five persons in the waste ground area, at least two of whom were firing at them with automatic weapons, firing bursts and single shots. The men were concealed behind trees, hedges and a gulley. He saw one man firing at their position and fired one round from his SLR. This was aimed and whilst he cannot say if the man was hit there was no further firing from that area.

Shortly after an APC drove from the Hall and brought a number of dead/injured to HTH. He did not see these persons before they were removed from the Hall.

At about 2030 hrs his position was fired upon from the flats to the west of the Moyard Park Road, the flats running north/south. The fire was coming from two or three gunmen located on the veranda and in an adjacent window of the upper flat at the extreme southern end of the block, which he now knows to be No. 21 about 120 yds from his position.

After the firing started he left to join Soldiers 4 and 5 who were in a position at the end of a roof gully about 20 yds north of the sangar. There was insufficient room there for him to engage the gunmen. He estimates Soldiers 4 and 5 fired around 20 to 25 rounds of 7.62mm rounds from their SLRs over a 15 to 20 minute period. He recalls seeing one man thrown back from the window, presumably having been hit. He did not fire any further shots even though there was sporadic fire as he could not identify the locations of the gunmen. His statement is dated 11 August 1971.

HET Soldier 4 [CCRIO file Soldier D]

At 2020hrs in sangar outside main entrance of VFS. The building came under fire from the south west direction. He could not see where this fire was coming from. After a few seconds he heard fire being returned from the sangar on the top of the roof.

He knew the men on the roof only had ten rounds of ammunition each, he took more ammunition up to them. He left Soldier H in the sangar and went up to the roof where he found Soldiers 1, 2 and 3 in the sangar. He handed over the ammunition and went over to the position of Soldier 5 who was at the end of the roof gully about 20 yards north of the sangar. At this time, they came under fire from a block of flats located on the eastern side of Moyard Park, running in a N/S direction. The fire was coming from the veranda and the window of the upper flat (21). He could see the muzzle flashes of

three weapons, one automatic and the others either rifles or SMGs being fired on single shot. The reports sounded to be from heavy calibre weapons. The windows and veranda were about 100-200 yds away.

The gunman on the veranda was engaged and 'silenced' by Soldiers 3 and 2.

Soldier 5 and he then engaged the two gunmen firing from the window next to the veranda. He fired a total of 25 rounds from his rifle at the gunmen. After about 10 rounds he saw one of the men fall backwards. Soldier 5 and he fired about the same number of rounds at the two gunmen and he saw the second gunman fall in the flat after which Soldier 5 and he ceased firing.

The engagement with the gunmen is estimated to have lasted about twenty minutes. He did not fire again that evening although the VFS came under sporadic fire from about this time until 0400 hrs. This was as he could not identify the gunman's position. He then suggests he "just remembered" he did fire once more at about 2200 hrs. He saw a male carrying a rifle on the roof of the flats in Moyard Park and saw him behind the fifth chimney from the southern end of the flats. He fired two aimed shots and he disappeared. He did not see any of the three men in the flat after he and Soldier 5 had engaged them.

His statement is dated 11 August.

HET Soldier 5 [CCRIO file Soldier E]

At about 2020 hrs Soldier 5 had just been relieved from sentry duty at the sangar at the SE corner of VFS when his position came under fire. He took cover in a gully about 20 metres north of the sangar.

He was fired at from a veranda and adjacent window of number 21, a top flat at the southern end of Moyard flats. He was joined by Soldier 4 and identified three gunmen firing a submachine gun, a rifle and a pistol at different times.

On the instructions of Soldier 1, Soldier 5, along with Soldier 4, engaged the gunman located in the flat window. Soldier 1 had silenced the gunman on the veranda, who was thrown backwards behind a dustbin.

Soldier 5 fired about 25 rounds of 7.62mm from his SLR. All were aimed shots. Soldier 4 also fired about 25 rounds and shot the gunman who was armed with a sub-machine gun causing him to be thrown backwards into the flat. After about 20 minutes the firing stopped. Sometime about midnight he saw the body of a male person lying on the veranda.

HET Soldier 6 [CCRIO file Soldier F]

In the sangar in the NE corner of VFS. He was shot at from Moyard Park flats (automatic weapon). He could not return fire given his position within the sangar.

Shortly before 2100 hrs saw a group of men standing on the waste ground to the south side of Springmartin. The group grew to 200 and a group of about 100 men ran from Moyard Crescent towards the Springmartin group. They were stoning each other and eventually the group from Springmartin were driven back from the waste ground onto the Springmartin Road near to the junction with Blackmountain Grove. The two groups were standing confronting each other and shooting started from the crowd in Springfield Park into Springmartin. He heard the sound of a machine gun and a .22 being used. He saw soldiers move along Springmartin Road and the crowd from Springfield Park retreated back towards his position and also in the direction of Ballymurphy.

Shortly after this he heard the sound of very heavy shooting coming from the front of the HTH. He could not see where the firing was coming from. He then came under fire from a gunman at the electricity substation north of the school. He could not pinpoint the gunman. Shortly after he came under fire from a man positioned SE of Finlay's Factory armed with a rifle. He could see the muzzle flash. He fired one shot and cannot say if he hit him, but the firing stopped.

[150] M26's evidence correlates with that of Soldier N. This witness lives outside the jurisdiction. He was a sergeant in Special Investigations Branch of the RMP. He provided a statement of 10 August 1971 in which he said he received 38 rounds of .22 ammunition on 10 August 1971 which Soldier N told him he had recovered from the pockets of Mr Teggart. M26 then sealed these in a plastic bag, labelled them and

passed them to DI Meehan on 16 August 1971, subsequently however this exhibit could not be found.

VI. ADDITIONAL EVIDENCE

[151] In addition, I received some other categories of evidence in various forms. First, I received a statement from a Mr Anthony McEvoy pursuant to Rule 17. This was unusual evidence as it related to Mr McEvoy's father's recollections, now deceased. Mr Frank McEvoy, the father, was said to have made various comments to his son about events at the time. It is clear that Mr Anthony McEvoy took great care to compile his statement and that he wished to assist this inquest. I admitted this evidence, even though hearsay, to allow me to consider absolutely everything of relevance. It cannot be definitively said where Mr McEvoy was or whether he was an actual observer of events such as the public disorder set out in his son's statement or the alleged brutality of the padre in the Hall. It is also clear that Mr McEvoy was deeply troubled by events and suffered from post-traumatic stress disorder. Overall, I cannot rely on this evidence as a reliable account of events given uncertainties about what Mr McEvoy experienced and the fact that this is hearsay.

[152] Further evidence was given regarding alleged Loyalist UVF activity. One witness, C3, gave oral evidence of this incident which he said came from his own knowledge and experience. On examination the specifics of this evidence seem to relate more to Incident 1, however C3 did give general evidence of Loyalist activity in the area. In particular, in terms of firing positions he said that there were "Prods at Springmartin" and also Army positions there. He also said he saw an armed man who was definitely a Loyalist, down behind the flats, carrying a .303 rifle.

[153] Other evidence of Loyalist activity contained in the written statement of Witness X was read into the record. I have also dealt with this in relation to Incident 1. I had hoped this witness would be called, however he would not agree to give evidence in the presence of a lawyer of the next of kin. The evidence was therefore

read in by way of an agreed summary for me to consider in full. This witness is in an unusual category as he had no direct knowledge of events. Rather, he was described as an interlocutor as he had spoken to UVF veterans and recounted their version of events at the time. The statement is dated 26 May 2018. In addition, various questions were put to the witness via solicitors. These replies are comprised in correspondence of 2 November 2018 and they were also received into evidence for me to consider. Further evidence was received in relation to the weapon purportedly used.

[154] The witness said in his statement that due to utterings in the local community he met veterans and listened to their story. He said that:

“Everything is relayed to me verbally and I have made no record of same. I am not able to supply information in relation to the source of the information. Furthermore, I am aware that some of the veterans are passing on information gleaned from different sources. It is unclear whether this information is first hand. I cannot associate a specific piece of information with a specific source.”

[155] The witness referred to an initial letter of 4 May 2018 which began the process and led to the statement and further questions. The import of the evidence is that Witness X said from information from the veterans that there were active service UVF units in the area and specifically a sniper, Mr Thomas West, and a spotter, unidentified. Mr West was said to have used a specific Mauser weapon. Mr West was reported to have confirmed ‘hits’ in the field between Moyard and Springfield Park and also on the Springfield Road close to the Henry Taggart Memorial Hall. No identities were given but Witness X said the targets identified by the spotter were either IRA gunmen or people engaged in rioting. The rationale given was that “rioters were targeted as they were attacking the residents of Springmartin whilst also providing cover for IRA gunmen to shoot towards Springmartin and the Henry

Taggart Hall.” The UVF sniper, Thomas West, identified by Witness X is now deceased. Witness X said the UVF acted to avoid detection.

[156] In addition to Mr West and the spotter, Witness X also referred to a number of active service units in the area who were said to have taken part in a gun battle over 3 days. His evidence revealed there were usually five men in a unit. His evidence referred to activity directed towards them, hence the engagement. There was no detail given as to the number or identities of IRA gunmen but reference was made to an IRA gunman being apprehended by the Army in the Springfield Park area.

[157] Much evidence was provided by Witness X in relation to the Mauser weapon. I asked at an early stage of this inquest that this issue be examined by police. That examination was conducted and reports were provided to me of June and November 2018 (PSNI) and September 2018 (FSNI), which make clear that there was no forensic link between any of the recovered bullets and this type of weapon. There was also a map provided by Witness X which marks firing points from Springmartin.

[158] I will come back to this issue of UVF activity in a moment. I am also asked to consider whether the UVF may have been responsible for some of the deaths in this incident. This was a point pressed by the MoD, which obviously goes further than the more general suggestion of UVF presence/activity in the area.

[159] The corollary of UVF activity is the assertion that there was IRA activity in the area. This was postulated by the MoD as a clear reason for shooting by the Army. The MoD rightly reminded me that no IRA member has come to give evidence to me. I pause to observe that Witness X referred to the veterans from the UVF coming forward and wanting to tell their story when hearing the Coroner’s appeals for information. The evidence of IRA activity comes from various sources of evidence including civilian evidence I have heard. In addition, I heard from Mr Gerry Adams in relation to this issue and Mr Pdraig Yeates.

[160] Mr Adams attended and gave evidence before this inquest on 8 May 2019. He did not make a statement of events at the time but he recounted how he was in the area on the day in question. I have considered the statement Mr Adams made dated 14 January 2019. It is of course correct, as the MoD submissions stress, that Mr Adams was not witness to any of the events with which I am concerned. This means that his evidence is of limited value. However he was asked to explain his position on IRA activity on the day in question and whether or not he was a member of the IRA. I understand why such questions were asked, however I must observe that my role is not to determine wider issues such as Mr Adams' alleged connection with the IRA. When pressed, he denied that he was a member of the IRA. He said that he was chairperson of the local branch of Sinn Fein.

[161] Mr Adams was asked to assist on the general position at the time. He was asked could he assist with details of IRA activity on the day and the names of anyone involved. This was a valid line of questioning however it did not yield any result of substance. Mr Adams said he did not know the number of IRA units that were in Ballymurphy on the day in question or any information as to who from the IRA was present. In contrast Mr Adams gave fulsome evidence about the Army actions in pursuing internment, which he said was an all-out assault on the Catholic community. He also said that the IRA reacted in a certain way after the immediate aftermath of the internment raids which was effectively not to engage for strategic reasons. His evidence contains the following view:

"I cannot give you a first-hand explanation but insofar as my knowledge of the area insofar as listening to what other people were saying and so on and so forth, it is my belief that the IRA, and I think it was a very sensible decision, decided not to engage the British Army, except in a very token way, both in terms of all the safety of the local community but also, I presume, for the safety of their own volunteers."

[162] Mr Adams did say that he saw two masked men appear who provided covering fire whilst Mr Eddie Butler was rescued. He also said he witnessed a man with an artificial leg (Mr McStravick) pull a door from a shed and use it to haul Mr Butler to safety. This account differs from that of Mr McStravick's daughter, Ms Mervyn, but it is not particularly material. Of more moment is Mr Adams' acceptance that two masked IRA men were in the area at the relevant time. Mr Adams also said that he heard there were IRA men at Moyard flats and that there was engagement mid-afternoon. He said it was not in the evening but he had no direct knowledge of this and so his view of the timing of IRA involvement cannot be determinative. Mr Adams was also aware of other IRA activity and also rumours of Loyalist activity but he could not be definitive about any of the accounts.

[163] When broken down Mr Adams gave a view of the local population's resentment to internment. That perspective was recounted by others and it is something I can accept. Other than that Mr Adams convinced me that there was IRA activity in the area in question on the day but his evidence does not establish the nature, extent or identities of those involved. It is a pity that I have not received a clearer picture of all of this.

[164] Mr Padraig Yeates came and gave oral evidence to the inquest on 10 September 2019. This was primarily due to a pamphlet he had written when in Belfast on 8 August 1971 entitled 'The Battle of Belfast.' The pamphlet was exhibited to his statement of 31 May 2019 and 9 September 2019. Mr Yeates was at the time of writing the article associated with Clann na hEireann, a British based Irish Republican Group. He gave very frank evidence, which I appreciate. He said his writing was clearly and obviously designed to further the Official Republican cause and so was propaganda and had to be read in that light. It also contained hearsay accounts and so had to be read with caution.

[165] One particular limb of his evidence, which was drawn from his experience with a radio station on the day, was what he said was an awareness that the UVF were a threat to the Catholic community in the area. At least that was the report coming in. He said he went to a house with an acquaintance to look for a gun to defend from the UVF, but when no weapons were forthcoming he went to the Northern Ireland Civil Rights Association (“NIICRA”) office to get some other form of help. He said he heard gunfire around 8:00pm which he believed was coming from Springmartin. That is really all Mr Yeates could say and he stressed that he could not be fully sure of the accuracy of events he reported on given the hearsay nature and the propaganda use.

[166] In addition to this evidence about IRA activity, I examined some records as a result of evidence given to me about two identified persons alleged to be IRA members, operating in the area at the time. This was evidence given by an Incident 1 witness, Mr Clarke, and so I deal with that in Incident 1. As I say there, I am satisfied that Mr Clarke was correct to associate both the named persons with the IRA; however the evidence does not assist me in reaching findings about specific events. The same applies to this incident as the material I received and the evidence I have read allows for a broad view of IRA activity to be taken but does not assist with specific findings regarding these deaths.

[167] I also received some evidence pursuant to Rule 17 about identification of the deceased and procedural issues. I will not recite all of this. However, it is important to mention the statement of Joseph Murphy’s wife and her recollections of conversations in the hospital as this is relevant to what may have happened to Mr Murphy.

[168] I have already referred to the expert medical evidence. In addition, evidence taken from the time includes the following. Dr Gurd of the RVH, in a deposition which is undated, referred to Mr Murphy being admitted at 11:15pm on 9 August 1971, apparently having been shot in the right thigh.

[169] Dr Gurd reported as follows:

“On examination there was an entry wound on the upper aspect of the right thigh and an exit wound on the medial aspect - bleeding ++ from the medical wound. There was gross swelling of the thigh and no function distal to the injury. X-ray showed a grossly comminuted fracture of the upper third of the shaft of the femur. A bullet was also detected on x-ray in front of the symphysis pubis. Operation was deferred until the next day because the patient was so ill. On 10 August 1971, the edges of the exit and entrance wounds were excised, and the passage of the bullet probed and cleaned. The bullet lying in the symphysis pubis was not removed. Routine treatment - Thomas’s splintage.”

[170] Dr Paul Osterberg FRCS also made a deposition which stated that on Friday 20 August 1971 he performed an operation on Mr Murphy. He said:

“The leg was grossly swollen and indurated, especially in the upper thigh, where there was a bullet wound with a grossly comminuted fracture of the upper third of the femur. As the viability of the leg was impaired it was decided to do a guillotine upper thigh amputation and this was carried out. The operative findings showed gross tissue necrosis in the upper thigh.”

[171] There is also a record that Richardson A.E. Assaf certified death occurring at 12:50pm on Sunday 22 August 1971 in the Respiratory and Intensive Care Unit of the RVH.

[172] At an earlier stage in preparation for these inquest proceedings, permission was given to exhume the body of Mr Murphy and that took place in 2015.

[173] There is also a statement (undated) of Mary Murphy, and a record of her interview with Paul Mahon on 2 March 1999 which is of relevance. The following is a summary from both sources. Mrs Murphy said to Paul Mahon that her husband left the house around 7:30pm and that sometime after 9:00pm she heard he had been shot as Dessie Crone (now deceased) came to her house and told her. Mrs Murphy recounted that she was told her husband was standing with a group of men talking when the Army opened fire from the Henry Taggart Hall. Apparently, when the shooting started, the men all fell to the ground and it was while on the ground that Mr Murphy was shot. Mr Murphy then said that she went to the Henry Taggart Hall the next morning around 7:00 am to ask about the wounded. The Army were outside brushing up glass and upon her making her enquiries one soldier said "we don't want to know about you or your fucking wounded, take yourself off the fuck." Mrs Murphy recounted that her husband told her not to worry he was only shot in the leg, but in the Henry Taggart Hall they shot rubber bullets at point blank range into him. He said to her that there was one young soldier who came to his aid and tried to help and he got a busted mouth from another soldier for that; that was the soldier who had fired the rubber bullets. Mr Murphy said they put him in a darkened room with other wounded and every time the Army came in they were kicked and beaten. Davy Callaghan was next to him. Mr Murphy said that the Army padre was the only one to help as he intervened, and also the young soldier who was from Exeter.

[174] Mrs Murphy said in her account that her husband had a drinking problem but he was a good man. She then described how her husband deteriorated and had an amputation after a main artery had busted. She said she spoke to him about an hour before that and that was their last conversation. The doctor told her the operation had been a success but Mrs Murphy said she was not told about the spread of

gangrene. Mrs Murphy described being given her husband's leg after the operation which she buried.

[175] Mrs Murphy also described constant raids on her house after her husband's death. She also described events at the inquest in March 1972 where she said some soldiers tried to interact with her and buy her a cup of tea/lunch. She said that they said they knew her husband was an innocent man and apologised for the loss of him.

[176] There are some other miscellaneous statements which I have considered in the round. Paul Connolly was excused for medical reasons from giving evidence. He is the son of Mrs Connolly and he described the severe effects of his mother's death. He also said that his mother went out about 8:00pm to look for Briege and Joan and that was the last he saw of her. She was wearing a coat, not carrying anything. Mr Connolly also gave evidence regarding the death of John McKerr. He also said that he was asked whether he saw any firearms when he was walking around the estate and he saw one weapon, a pistol, held by a man whose name he would not include in a statement.

[177] Joanie Crone was interviewed by Laura McMahan on 7 April 2010. She is the wife of Dessie Crone who it was said was with Joseph Murphy when he was shot. She was 78 at the time of the interview. She also said in the interview that Mr Murphy was her full cousin. She said he was sober that night when he went out and she heard he had been shot when her husband returned and told her. There is nothing of substance in the interview.

[178] Two statements witnessed by an S D McClelland of 23 August 1971 also appear to have been obtained by the Catholic Church ("Central Citizens' Defence Committee"). The first has the name redacted but is thought to be from a Sean McStravick. He said that at 8:50pm the shooting started. Later at 9:50pm he heard a child crying which he realised was coming from the side of the house which backs

onto the field. The child identified as Eddie Butler said "I'm shot." This man went to help, describing the fire from the Hall becoming heavier. He therefore said he, his daughter and man called Mr Patrick T shouted at the lad to crawl along the side of the fence to a hole beside an ice cream van. He dragged the boy through the hole who said "my wee brother is out there too." He said he went out with his wife and constantly shouted at the army to stop firing as a child was shot and they needed help. He said an Army spokesman then called through a loud hailer that he would cease fire for two minutes to allow the children to get out of the field. Two men from a house opposite ran into the field and lifted the two older boys and brought them back to his own house and two girls from a first aid post at St Thomas' school arrived and carried Edward out on a makeshift stretcher.

[179] The other statement is from Patrick T and is made in connection with the shooting of Edward Butler. This statement largely replicates that of Mr McStravick. In his statement Patrick T said he was at the home of Mr and Mrs McStravick at approximately 8:50pm. He said there was heavy gunfire outside directed towards the house coming from the direction of Henry Taggart Hall and Springmartin. At around 9:00pm he said he heard the child crying from the field and he along with the others brought the child into the house where they saw he was wounded and had lost a lot of blood. Patrick T Said he lifted the boy's leg and there was a gash underneath his testicles where it appeared the bullet had passed through his leg. He was crying and asked for his mother and then said he wanted his brother who was in the field with another kid and Patrick T then made contact with him. He said that he tried to go out and again gunfire was directed towards the door of the house, a bullet coming through the kitchen window, through a cupboard and lodging in the wall. He then described asking the soldiers to cease fire and how the other two boys were rescued from the field and the Knights of Malta arrived and assisted Edward Butler.

[180] An interview of Willie Ward with Paul Mahon of 9 February 1999 was also provided. Mr Ward said he was out on the night in question with some of the

deceased when shooting started and he ran away with a man called Dan Breen. He said he was hit in the shoulder by a bullet. He said he ran into Gillen's house, where Dan Breen was and stayed there until the next morning. Mr Ward suggested he was out on the street awaiting the return of a body for a wake to a house nearby.

VII. CONCLUSIONS FROM THE EVIDENCE

[181] Following my consideration of all of the evidence I have come to my findings as follows. The core questions are whether I consider the shootings of the deceased to have been caused by the British Army and whether they can be justified. I must decide these questions on the balance of probabilities bearing in mind the frailties of evidence after such a passage of time. In two cases, those relating to Joan Connolly and Joseph Murphy, I am also asked to consider whether inadequate medical treatment contributed to the deaths. In the case of Daniel Teggart I am asked to consider whether he had ammunition upon him when brought into the Henry Taggart Hall.

[182] This incident has been particularly difficult to determine because of the nature of events. It is obviously not a single incident. These events also occurred during a fast moving and sometimes chaotic evening when many people were out on the streets including children. People were clearly angry about the introduction of internment and tensions were high. Also there was clearly no proper investigation at the time by RMP or other agencies.

[183] I have already said that given the passage of time and the weakness of associated historical recall it is impossible for me to be absolutely precise about exact locations and movements of people. However the log notes I have been provided with are of use in painting some time frame of events, specifically that there was hostility directed towards Henry Taggart Hall at various stages in the day. That accords with civilian and military evidence which variously describes activity at the Hall in the nature of a riot.

[184] On the basis of what I have heard and read I am not satisfied that there was any sustained shooting at the Hall through the day. I accept that there may have been some sporadic gunfire and that people were gathered, shouting, throwing stones and other missiles and those in the Hall would viably think they were under attack by the community. Of course, no one was shot outside the Hall which rather makes the point that the riot earlier in the day was containable.

[185] It is the early evening events which are more problematic because four people were shot dead in the field. The logs suggest that this activity starts around 9:00pm but they are not definitive in relation to exactly what happened. I have considered all of the evidence as to how this came about and who might be responsible.

[186] In my view, the fact that standard issue British Army bullets were found in the deceased is determinative that they were shot by the British Army. Whilst I can accept that there was UVF paramilitary activity in the area I am not satisfied on the basis of the evidence I have heard that this caused these deaths. That is because there is simply no evidence of any cogency or specificity that UVF gunmen shot at these people in the Manse.

[187] In trying to establish facts, the direction of the fire relative to where the deceased were located is important. In this regard the evidence from the two women (Margaret Elmore and Agnes Keenan) who lived at 392 Springfield Road was compelling. They told me that bullets hit the gable wall of that house. Logically, the most likely place from where these bullets came was the Henry Taggart Hall. The very helpful evidence given by Mr Murphy, Engineer, supports my view on the balance of probabilities about the direction of the fire. The ciphered soldiers also said they were firing from this position. The military witnesses who came forward who were stationed at the Hall also said there was firing from there. Having considered all of the evidence there is no real doubt in my mind that each of

the deceased was shot by British Army fire coming from the direction of the Henry Taggart Hall.

[188] The next question is whether the deceased were armed or doing anything that would justify shooting them. In answering this question I bear in mind that I have not heard from one soldier who gave direct evidence on the point. I did admit the ciphared statements under common law because I do not know whether these soldiers were deceased or unavailable to give evidence for some other reason. It is very unfortunate that I could not hear their account of what actually happened. These statements do paint a picture of heavy gunfire coming from a number of locations including the waste ground. They refer to engagement over 10-15 minutes around 9:00pm. They also refer to the fact that it was dark and that shots were aimed at muzzle flashes. They refer generally to people with guns, including a woman with a pistol. They also refer to seeing people remove weapons from some people who were shot.

[189] I have considered these statements as part of the overall assessment of this case however there is a limit to their value as the witnesses have not been questioned and the statements themselves do not provide specific evidence in relation to the deceased. While various ciphared statements refer to gunmen and a woman they do not square with the evidence I have heard and so I am not satisfied that I can correlate the deceased with any of these general statements made at the time. No one has come and explained the military response in relation to each of the deceased to me. Specifically, no military witness has told me that they shot at these persons who were armed or even that they shot at an armed person in the immediate vicinity. By contrast, I have heard ample civilian evidence which I rely on and this points to the fact that none of the deceased were armed. Also the evidence I have heard establishes that no arms were found on or near the deceased. In addition, there is no evidence of gunshot residue which satisfies any evidential standards.

[190] The point that seems to be made as justification for these deaths is that there was IRA activity and that if IRA gunmen shot at the Army, they were justified in shooting back. I have considered this submission carefully. The ciphered statements provide a background of gunmen in the area shooting at the Henry Taggart Hall. I am satisfied that there was some IRA activity in the area. Civilian witnesses have referred to this and also M97 provided an account of a named individual in the area which I found to be credible. I cannot say how many gunmen there were. On the basis of the accounts I have heard I do not think that there were large numbers of gunmen but there was some presence and evidence that they shot at the Army.

[191] It is also impossible for me to say who fired the first shot without any direct military account of this. I accept the argument that when faced with armed gunmen shooting at them soldiers were entitled to protect themselves. However, the fact that there was some engagement by gunmen does not automatically answer the question in this case as to whether or not there was justification for the killing of those who died in the Manse. That is because there is no evidence to actually link the deceased with the IRA activity I have mentioned. There is not even military evidence of direct proximity to IRA activity given the failure of witnesses to come forward to explain events.

[192] Also, while certain suspicions are raised in the papers about guns being removed from the deceased, there is absolutely no evidence of this. The evidence I have points the other way, that the deceased were unarmed. Also, none of the deceased were claimed as members of the IRA, none had military trappings at their funerals and their death notices highlight no association.

[193] Each death must be accounted for, any response to violence directed against the State has to be necessary and there has to be a minimisation of risk in order to protect life. Also, the military, with the benefit of training and expertise, must manage the situation within legal parameters. I accept that on occasions this may

have been difficult in Northern Ireland given the nature of the conflict, but each fatality has to be explained.

[194] I then turn to the Army response to events in the Manse. Whilst the ciphered soldiers' statements refer to reasons for actions, none of these witnesses came forward and this evidence was untested. I am prepared to accept that force may have been justified to deal with armed gunmen who posed a risk. However, I am satisfied that accounts of persons said to be directing fire at the army do not relate to the deceased. In this regard I bear in mind that I did not hear from all military witnesses particularly those who fired during this incident. The extent of the response is also graphically illustrated by the fact that Eddie Butler, a child, was shot whilst in the Manse. Hence the evidence before me does not provide justification for any of these specific deaths.

[195] The commanding officer M130 is deceased and could not give evidence. It is thought he might be Soldier A. I note that M45 told me that M130 was the lowest rank to be in control and that he was not experienced. Soldier A's statement is noteworthy as it states that some direction was given to cease firing to "enable more control to be given." This comment provides a glimpse into what may have happened but it is obviously not determinative.

[196] I now turn to the medical treatment of the deceased. I preface my findings by acknowledging that this is a very delicate issue. The description of how Mrs Connolly died is graphic and disturbing. There was some evidence about how swifter medical treatment may have saved Mrs Connolly. I have reviewed this and considered it carefully. I bear in mind that the medical standards of 1971 are not the medical standards of today. I do consider there was a basic inhumanity associated with leaving Mrs Connolly in the field for so long and in relation to how she was transported to the Hall. Those actions were not taken with the greatest measure of diligence or respect. I am of the view that swifter medical care would have assisted

as the medical expert said but I cannot say it has contributed as a cause of death on the basis of the evidence I have heard.

[197] As regards Mr Murphy, the expert evidence, including that obtained by the next of kin, does not support the case that he was shot by rubber bullet(s) at the Hall. I therefore do not make that finding. However, in his case I also think he was handled with some insensitivity within the Hall and his family were also badly treated. It is right to raise conditions in the Hall. I am asked to conclude that brutality was displayed towards the injured and dying. I do not go so far as that but I do think that some personnel were triumphalist and abusive towards the able bodied who were brought in, including by means of physical abuse. I have heard evidence from civilians on this and it accords with evidence I have heard in other incidents. The treatment was heavy handed and was part of a prevailing tough culture within the regiment which might have been deployed elsewhere but which was wholly inappropriate when directed towards those detained by the Army on this day.

[198] The only issue about the actions of the four deceased arises in relation to Daniel Teggart. There was no weapon found near him or gunshot residue. However, there was some evidence at the time of ammunition found in his trousers. I have considered this evidence from Soldier N. The deposition states: "I made a search of the clothing to establish identities and on searching a pair of dark coloured trousers removed from Henry Taggart I found 38 rounds of .22 ammunition." In his undated and unsigned deposition, Soldier N stated: "I made a search of clothing to establish identities and on searching a pair of dark coloured trousers removed from Daniel Taggart I found 38 rounds of .22 ammunition." M26 was the SIB Sergeant who recorded the statement referred to above. He made a statement which is dated 10 August 1971 and was also admitted. He stated he received the ammunition from Soldier N, who told him they were recovered from the trousers of Daniel Teggart. M26 stated he gave the ammunition to a Detective Inspector on 16 August 1971. This ammunition is no longer available.

[199] On this issue the Army medic, Nigel Mumford, also gave evidence between 8 and 10 April 2019. In his statement to the Coroners Service, he alleged he had been asked to plant ammunition on the wounded, but he had refused to do so. Mr Mumford also stated that had there been such a quantity of ammunition in the trousers of Mr Teggart, he would have noticed this at the time he removed them. It is the Next of Kin's case that when received into the Henry Taggart Hall, Mr Teggart was not in possession of ammunition and that if .22 rounds were recovered from his trousers, they were planted there.

[200] The MoD submit that .22 ammunition was found by Soldier N in trousers attributable to Daniel Teggart and that there is evidence upon which it would be open to the Coroner to find that Mr Teggart was in possession of ammunition at the time he was taken into the Henry Taggart Hall. I have considered both perspectives and all of the evidence in relation to this. Having done so, I am not satisfied on the balance of probabilities that this fact is proven. I say this given the seriousness of the allegation. Fundamentally, I cannot understand why if this were true there was no further examination of the ammunition which would have connected it to Mr Teggart. Also, I did not hear from soldier N and that means his evidence was untested. No other witness has given direct evidence of this allegation yet there were military witnesses in Henry Taggart Hall who gave evidence. This was quite an amount of ammunition yet it was not mentioned by other witnesses who were in proximity of the deceased such as those who recovered the bodies. This would also have been quite a revelation and so I cannot understand why it was not mentioned by anybody who gave evidence.

[201] I have considered all perspectives and all of the evidence in relation to this issue. Having done so, I am satisfied on the balance of probabilities that Mr Teggart did not have ammunition on his person which came from him.

[202] Other than these matters, I heard more general evidence about alleged

brutality of soldiers in relation to other events. I make no findings on this issue save to say that I found the evidence of Mr Mumford and Mr Gow to be fantastical in many respects particularly as it was related to books they had written. There is some other evidence of an insensitive Army response in the Hall and heavy handed behaviour towards civilians generally which is more reliable and which I have referred to above.

[203] Accordingly, having established that the deceased were all killed by the British Army, I find that the State has failed to discharge the onus upon it to establish that the shootings of the deceased were justified. I find that there is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.

[204] I must also consider the management of this operation. Having done so, I find this was lacking in certain respects on the basis of the evidence I have heard. I wholeheartedly accept the perspective of military witnesses I heard from who said they felt frightened and under attack. Many of them were young men at the time who told me that they were simply obeying orders. On the basis of the evidence I have heard there does not appear to have been clear guidance given to young soldiers on the ground as to what they should do and that there was a perception that everyone was in the IRA or associated.

[205] I do not lose sight of the fact that others who were armed put civilians in the area at risk of danger on this day. However, the Army as trained soldiers have a duty to protect lives and minimise harm. The use of force was clearly disproportionate given the number of civilians around in a highly charged atmosphere after the introduction of internment and as soldiers were in a protected position in the Hall.

[206] The Yellow Card does ensure that the least amount of force should be applied in order to protect lives. This was not adhered to as I have found that the use of force was disproportionate. The evidence establishes that the deceased were unarmed and

posing no threat. This was a tragedy for all of the families who have had to live with the memory of events. I cannot be any more definitive as to who fired the fatal shots in each case save to say it must have been members of the Parachute Regiment stationed at Henry Taggart Hall.

VIII. VERDICTS

[207] Therefore the verdicts are as follows:

Joan Connolly

- (a) The deceased was Joan Brigid O'Hara Connolly, female, of 91 Ballymurphy Road, Belfast.
- (b) Mrs Connolly was born on 28 October 1926.
- (c) Mrs Connolly was a married woman and a housewife.
- (d) She died on 9 August 1971 in the Manse Field, Springfield Road, Belfast.
- (e) She died as a result of gunshot wounds to the face and right thigh and as a result of blood loss from these wounds.
- (f) Mrs Connolly's death was caused by fire from soldiers in the Parachute Regiment.
- (g) She was unarmed and not acting in any other way of threat.
- (h) The shooting of the deceased has not been justified by the State.
- (i) The use of force by the Army that resulted in her death was disproportionate.
- (j) No proper investigation was carried out into this death.

- (k) There is a violation of Article 2 given the manner in which this shooting occurred without minimisation of risk.
- (l) The rules of engagement for soldiers in force at the time of this death, namely the Yellow Card, were not adhered to.

Daniel Teggart

- (a) The deceased was Daniel Teggart, male, of 29 Westrock Drive, Belfast.
- (b) Mr Teggart was born on 10 October 1926.
- (c) Mr Teggart was a general labourer.
- (d) He died on 9 August 1971 in the Manse Field, Springfield Road, Belfast.
- (e) He died as a result of high velocity gunshot wounds to his trunk and limbs, after an initial period of consciousness.
- (f) Mr Teggart's death was caused by fire from soldiers in the Parachute Regiment.
- (g) He was unarmed, not acting by way of threat and he did not have ammunition on him which came from him.
- (h) The shooting of the deceased has not been justified by the State.
- (i) The use of force by the Army that resulted in his death was disproportionate.
- (j) No proper investigation was carried out into this death.
- (k) There is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.

- (l) The rules of engagement for soldiers in force at the time of this death, namely the Yellow Card, were not adhered to.

Noel Phillips

- (a) The deceased was Noel Phillips, male, of 18 Whitecliff Parade, Belfast.
- (b) Mr Phillips was born on 6 December 1951.
- (c) Mr Phillips was a window cleaner.
- (d) He died on 9 August 1971 in the Manse Field, Springfield Road, Belfast.
- (e) Mr Phillips' death was caused by fire from soldiers in the Parachute Regiment.
- (f) He was unarmed and not acting in any other way of threat.
- (g) He died as a result of gunshot wounds to the neck and throat. After a possible period of initial consciousness, his condition deteriorated rapidly and death likely occurred within minutes.
- (h) The shooting of the deceased has not been justified by the State.
- (i) The use of force by the Army that resulted in his death was disproportionate.
- (j) No proper investigation was carried out into this death.
- (k) There is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.
- (l) The rules of engagement for soldiers in force at the time of this death, namely the Yellow Card, were not adhered to.

Joseph Murphy

- (a) The deceased was Joseph Murphy, male, of 19 Ballymurphy Parade, Belfast.
- (b) The deceased was born on 22 August 1971.
- (c) Mr Murphy was a rag and bone man.
- (d) Mr Murphy died on 9 August 1971 in the Manse Field, Springfield Road, Belfast.
- (e) Mr Murphy's death was caused by fire from soldiers in the Parachute Regiment.
- (f) Mr Murphy died on 22 August 1971 from injuries sustained to his leg, after operative interventions.
- (g) The deceased was unarmed and not acting in any way of threat.
- (h) The shooting of the deceased has not been justified by the State.
- (i) The use of force by the Army that resulted in his death was disproportionate.
- (j) No proper investigation was carried out into this death.
- (k) There is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.
- (l) The rules of engagement for soldiers in force at the time of this death, namely the Yellow Card, were not adhered to.

Signed: **Mrs Justice Keegan**
 Coroner

Date: **11 May 2021**

ANNEX 2

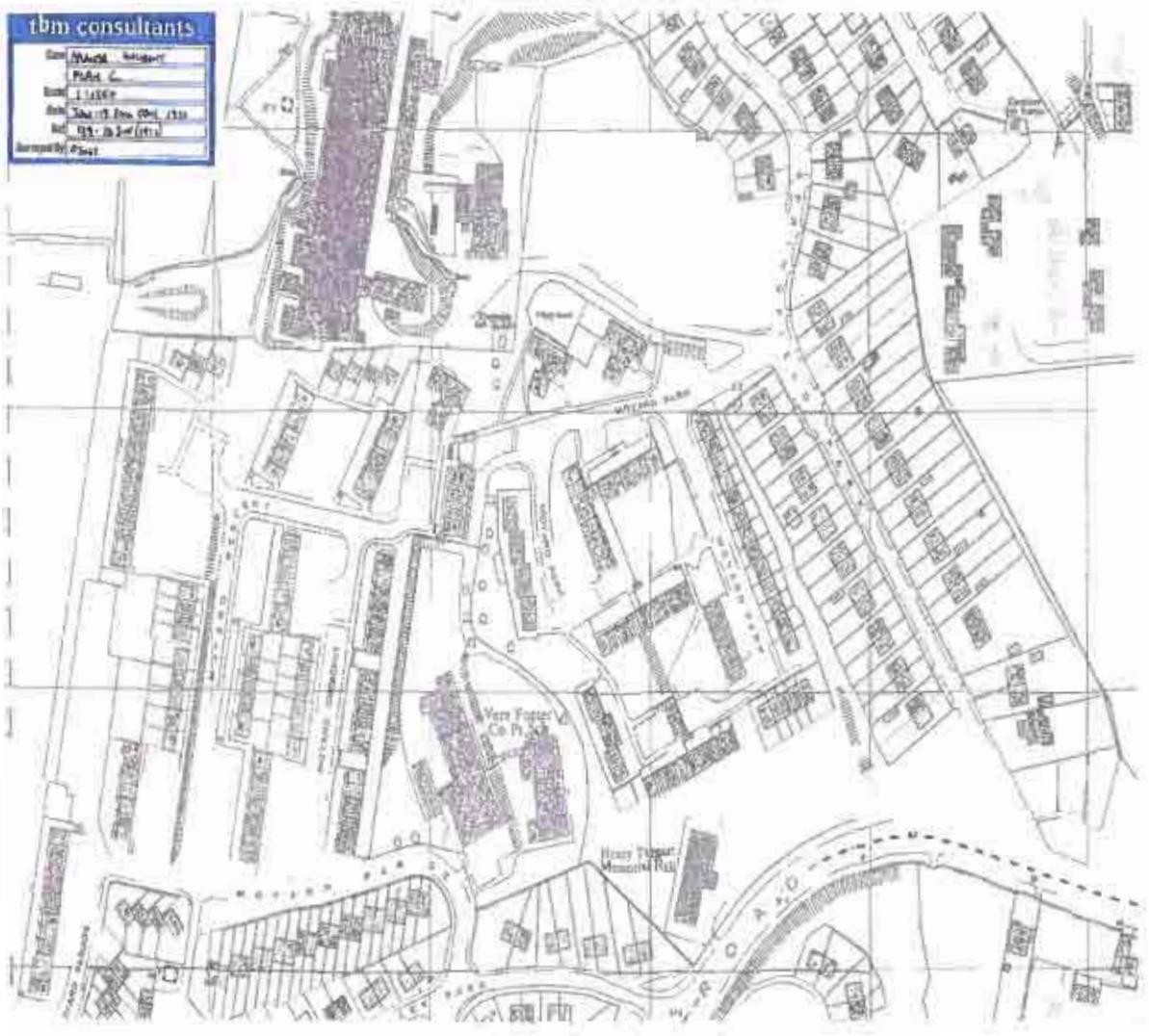
INCIDENT 2: THE DEATHS OF JOAN CONNOLLY, DANIEL TEGGART, NOEL PHILLIPS AND JOSEPH MURPHY

- 2.1 TBM Consultants Plan C/Ordnance Survey Map 1971
- 2.2 Film A Photograph 13 (important landmarks)
- 2.3 Photograph of sandbagged emplacement
- 2.4 Photograph of front of Henry Taggart Hall
- 2.5 Aerial Photograph of the Manse
- 2.6 Exhibit B2/09(photograph marked by Margaret Elmore)
- 2.7 Map marked by General Howlett

2.1 TBM Consultants PLAN C / Ordnance Survey Map 1971

tbn consultants

Client	City of Chicago
Project	Public Art
Date	1/11/17
Scale	1/8" = 10' (1/4" = 10')
Sheet	101 - 101 (1/1)
Author	John J. Smith
Designer	John J. Smith

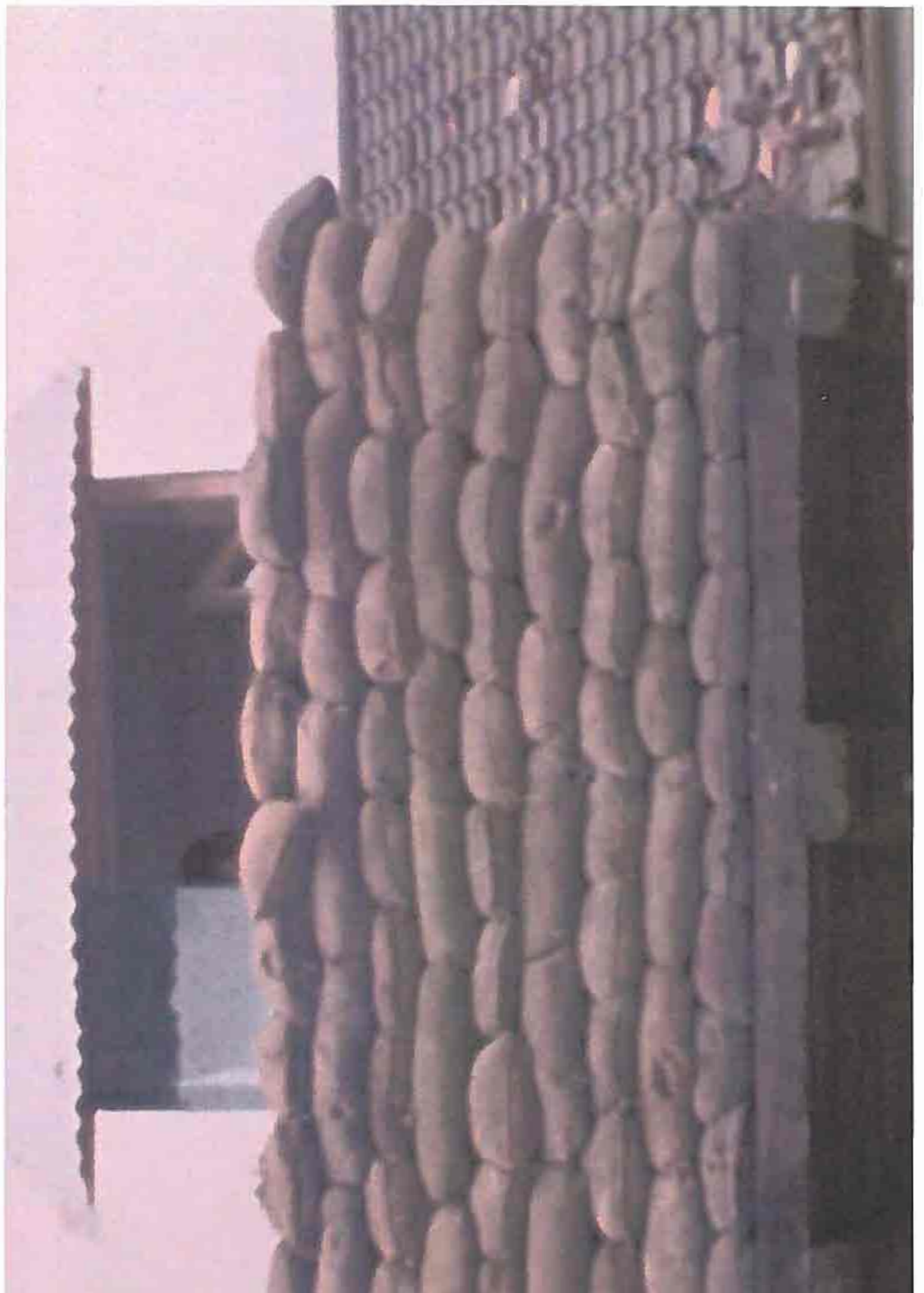


2.2 Film A Photograph 13 (important landmarks)

Film A 35mm Aerial



2.3 Photograph of sandbagged emplacement



2.4 Photograph of front of Henry Taggart Hall



2.5 Aerial Photograph of the Manse



**2.6 Exhibit B2/09 (photograph marked by
Margaret Elmore)**

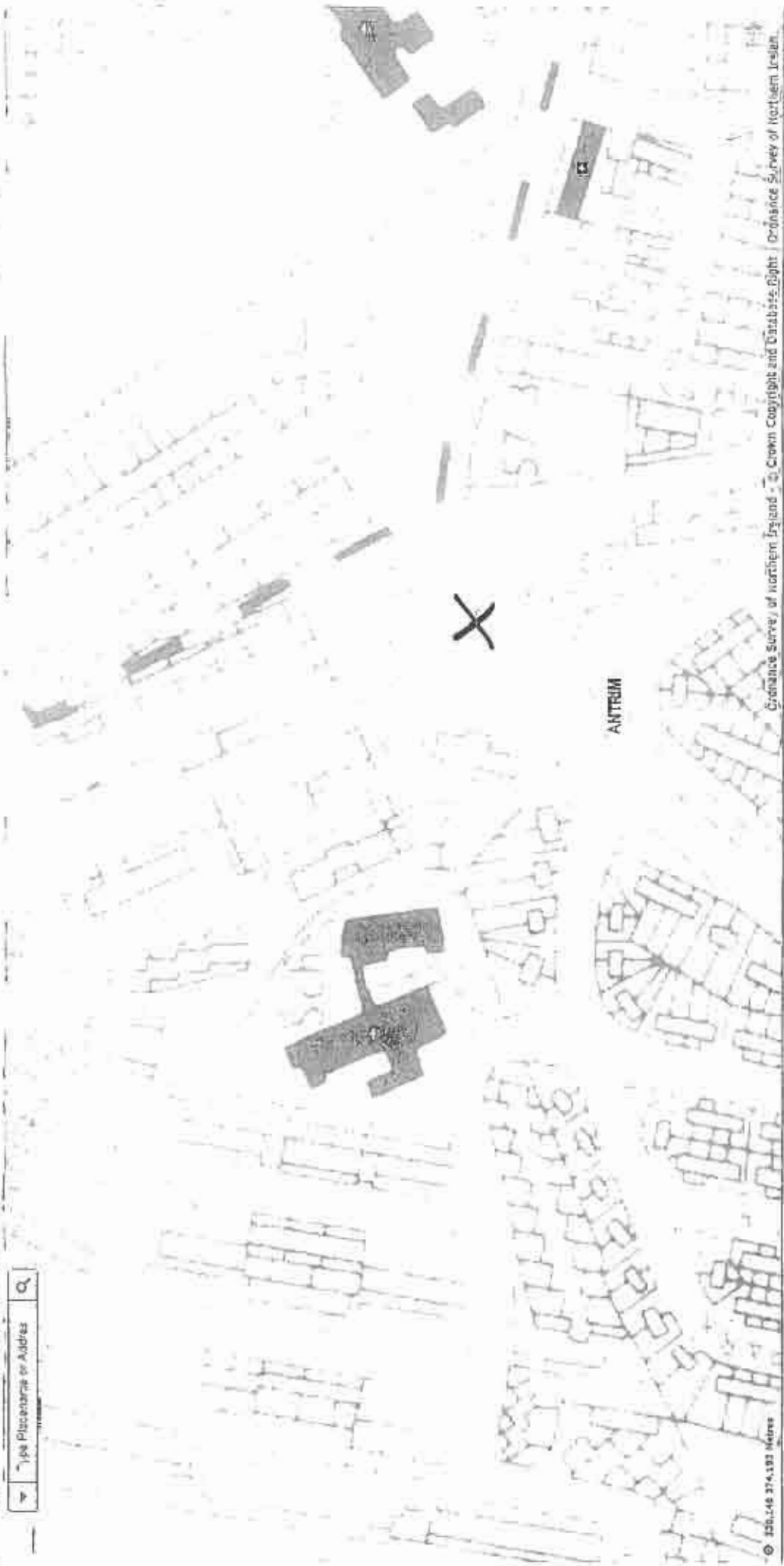
Film A 35mm Aerial



Hugh Mullan 09-08-71

EXHIBIT 62/09

2.7 Map marked by General Howlett



Neutral Citation No: [2021] NICoroner 6

Ref: KEE11472

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

ICOS No:

Delivered: 11/05/2021

IN THE MATTER OF THE CORONERS ACT (NORTHERN IRELAND) 1959

**IN THE MATTER OF A SERIES OF DEATHS THAT OCCURRED IN
AUGUST 1971 AT BALLYMURPHY, WEST BELFAST**

INCIDENT 1

THE DEATHS OF FATHER HUGH MULLAN AND FRANK QUINN

CORE ABBREVIATIONS IN THIS INQUEST:

MoD:	Ministry of Defence
NOK:	Next of Kin
IRA:	Irish Republican Army
HET:	Historical Enquiries Team
UVF:	Ulster Volunteer Force
APC/Saracen:	A six-wheeled armoured personnel carrier (APC)
APC/Pig:	A Humber armoured personnel carrier (APC)
SEM-EDX test:	Scanning Electron Microscopy with Energy Dispersive X-ray Spectrometry
CDR:	Cartridge Discharge Residue
SAA:	Small Arms Ammunition
SLR:	Self-loading Rifle
RUC:	Royal Ulster Constabulary
PSNI:	Police Service of Northern Ireland
CSNI:	Coroners Service for Northern Ireland
CSO:	Crown Solicitor's Office
FSNI:	Forensic Science Northern Ireland

CIFEX: Centre for Information on Firearms and Explosives

FAL: Fusil Automatique Leger

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IV. The Pathology Evidence: Father Hugh Mullan	[26]-[34]
V. The Ballistics Evidence: Father Hugh Mullan	[35]-[37]
VI. The Pathology Evidence: Mr Quinn	[38]-[44]
VII. The Ballistics Evidence: Mr Quinn	[45]-[50]
VIII. The Civilian Evidence	[51]-[260]
IX. Evidence from RUC Witnesses	[261]-[277]
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XI. Other Evidence including the investigation at the time	[471]-[474]
XII. Conclusions from the Evidence	[475]-[524]
XIII. Verdict	[525]

I: INTRODUCTION

[1] This is an account of the evidence and my conclusions and verdict. I have considered all of the evidence heard in this case which spanned over most of the length of this inquest series at various times. I have also considered all of the papers and the written submissions of counsel. This text does not recount each and every aspect of the voluminous material I have considered and so it should not be assumed that where some detail is not specifically mentioned I have not considered it. I have considered the totality of the evidence in reaching my findings.

[2] In the introductory chapter I set out the law governing inquests in Northern Ireland which I have applied. I have heard this inquest as a judge sitting as a coroner without a jury, with the agreement of all parties. I have kept in mind the investigative obligation imposed by Article 2 of the European Convention on Human Rights. I have applied the balance of probabilities as the standard of proof.

As I also said in the introductory section, the standard of proof is one thing but the cogency of the evidence is another as this case relates to events 50 years ago. The court is mindful that memory is affected by the passage of time and so accounts must be examined carefully before findings can be made. In accordance with my obligations in law I have, upon assessing all of the evidence I have seen and heard, tried to reach a verdict on the core issues. Where I have not been able to reach a conclusion I have explained why.

[3] The two deceased in this incident died on 9 August 1971 in waste ground adjacent to Springfield Park in Belfast. This part of the Inquest progressed over the longest period of time due to issues of tracing of military witnesses. The deceased, Father Hugh Mullan, resided at 45 Springfield Park, Belfast, adjacent to the waste ground in which he died. His date of birth was 9 April 1933. He was born in Portaferry in County Down and he was a priest in the parish of Ballymurphy and by all accounts he was well known. Father Mullan died on the night in question.

[4] The other deceased in this incident is Francis Joseph Quinn who lived at 49C Moyard Crescent, Belfast. He was born on 21 April 1952. He was a married man and a father to one child at the date of his death. Mr Quinn also died on the evening of 9 August 1971.

[5] Whilst these deaths occurred in close proximity the inquests were originally heard on separate occasions. The original inquest into the death of Francis Quinn took place on 17 February 1972. The original inquest into the death of Father Mullan took place on 26 October 1972. It is apparent that the separation of these inquests caused some difficulties in terms of the evidence. I will return to this matter in due course. However, I have clearly had the benefit of all of the evidence touching on both deaths in this inquest series and I have heard these two cases together.

[6] On 10 June 2011 the Attorney General for Northern Ireland directed, under the power given to him by Section 14 of the Coroners Act (Northern Ireland) 1959,

that a further inquest be held into the death of Francis Quinn. The reasons for this are important to state and are set out in correspondence of 10 June 2011 as follows:

“I note from the documentation provided to this office by the Public Records Office Northern Ireland that oral evidence or statements of two civilian witnesses, Robert Clarke and Gerald Clarke were available to the inquest jury in the case of Frank Quinn. Robert Clarke described being shot as he crossed an area of waste ground between the Springfield Park and Moyard areas. Mr Clarke said that, in his view, this shot came from a roof in Springmartin where he had seen soldiers about twenty minutes earlier. A statement from Mr Clarke’s brother Gerald Clarke is also contained within the inquest papers provided by the Public Records Office. Gerald Clarke’s statement indicates that, after his brother was shot, he witnessed Father Mullan being shot and that, in his opinion, the shots in question came from the roof of flats in Springmartin. Gerald Clarke also describes another man in close proximity to him being apparently shot and killed and says that he assumed that the man in question was Frank Quinn. He also said that the shots directed into the field seemed to be coming from two positions, Springmartin and Finlay’s factory. He was of the opinion that the fire coming from the area of Finlay’s factory was not military fire, but that the shooting from the Springmartin area was from military SLR rifles.

Despite the opinion expressed to the civilian witnesses to the effect that the army were firing into the waste ground between the Springfield Park and Moyard areas, it

appears that the only statements of soldiers who had fired shots on the day in question which were made available to the inquest jury charged with deliberating on the death of Francis Quinn were those of two soldiers referred to as Soldier A and Soldier E. Soldier A and Soldier E were both stationed on the roof the Vere Foster school. While Soldier E refers to firing shots at three men in an area of waste ground, he describes this waste ground as being on the southerly side of a right hand bend in the Springfield Road about 100 metres from the (Henry Taggart) Church Hall. This is clearly not the waste ground between Springfield Park and Moyard. The only other shots described as being fired by Soldiers A and E were directed at targets in an upper flat in a block of maisonettes which the soldiers said that they now knew or believed to be number 21 Moyard Park. Soldier A, who appears to be in a position of command in relation to the other soldiers stationed on the roof of the Vere Foster school, said that *'At no time during the night in question was any fire directed from the school towards the Finlay Factory area due north of the school.'* From Vere Foster School the Finlay factory area would be in the same general direction as the area of waste ground between Springfield Park and Moyard.

It is further noted that a deposition from [M26] of the Special Investigation Branch (Royal Military Police) was available to the inquest jury. [M26] visited the roof of the Vere Foster School on the day after the gun battle. The import of his evidence is that he inspected the view from the two Sangars on the roof of the school and concluded

that the sentries on the roof of the school could not have sight of a black flag on the waste ground behind and between numbers 80 and 82 Moyard Park (i.e. the waste ground between Springfield Park and Moyard.) This black flag was apparently intended to mark the spot on the waste ground from which the body of Father Mullan had been recovered, although it is not clear from the inquest papers relating to Francis Quinn who placed it there or when it was so placed. [M26's] statement concludes thus:

'From enquiries I made among military personnel deployed in Springmartin Road following the shooting between Protestants and Catholics I ascertained that no military personnel had fired into the Moyard area from Springmartin Road during the evening of 9th August 1971.'

It is clear from the Royal Military Police statements presented to this office, and indeed from evidence later presented to the inquest in respect of Father Mullan, that there is a large body of evidence indicating that soldiers did fire into the Moyard area, and did indeed fire shots at targets in the waste ground between Springfield Park and Moyard. It is further noted that the later deposition of [M26], made in respect of Father Mullan's inquest, contradicts his earlier assertion that no military personnel had fired from Springmartin. In so far as the inquest jury were informed that no military personnel had fired from the direction of Springmartin, this was incorrect and misleading.

Equally, as the inquest was held separately from that of Father Mullan, which took place some eight months later, the inquest jury did not have available to it, statements or oral evidence from those civilian witnesses, who were available to the inquest in respect of Father Mullan, whose evidence supports the proposition that Mr Quinn met his death in the area of waste ground between the Springmartin and Moyard areas.”

[7] On 10 June 2011 the Attorney General for Northern Ireland directed that a further inquest also be heard into the death of Father Mullan. In his correspondence the Attorney General wrote:

“Given the allegation made by a number of civilian witnesses that Francis Quinn was shot in close proximity in time and location to Father Mullan, I consider it advisable that an inquest be held into the death of Father Mullan also in order to ensure that all relevant evidence is heard in relation to each death.

In directing the holding of an inquest into the death of Father Mullan, I take into account the fact that it is apparent that many of the military personnel whose evidence would have been most relevant to the death of Father Mullan do not appear to have been called as witnesses and that, under the terms of an agreement between the Royal Ulster Constabulary and the Royal Military Police which was in force at the relevant time, the police force did not have access to military witnesses. Under the terms of the agreement, the investigation of the

accounts of military witnesses was effectively delegated to the Royal Military Police. This delegation of responsibility and the lack of rigour in the investigation by the RMP of accounts given by the Royal Military Police has been the subject of judicial criticism.”

The original inquests reached an open verdict in relation to both deceased.

[8] I am required under the legislation to look at the how, when and where of both deaths. The when is not contentious and so this inquest is focussed on where and how these deaths came about and whether it can be established if the deceased were acting in any manner which would arouse suspicions and who shot them. In this regard this inquest has been particularly complicated by virtue of the fact that a number of different regiments were in the area at the relevant time, regiments of the British Army. There is also a suggestion that there was activity from both the Irish Republican Army (“IRA”) and the Ulster Volunteer Force (“UVF”) at the time. These are matters I have to consider. I have heard from military witnesses and a significant number of civilian witnesses in relation to these deaths. I also heard ballistics and pathology evidence which I will discuss in more detail in due course. I have had the benefit of engineering evidence from Mr Brian Murphy and also maps. Finally, I have been greatly assisted by the submissions of counsel for the next of kin and the Ministry of Defence (“MoD”).

II. FAMILY TESTIMONIALS

[9] At the outset of these inquests, like the other inquests, I heard about these deceased men from their relatives. I heard from Father Mullan’s family who remembered him with affection and continue to have a real sense of loss because of his untimely death. Gabriel Ellison, Father Mullan’s cousin, recalled that when he was a child Father Mullan would bring his family clams from Strangford Lough, where he came from, to cook on top of the range. He told the inquest that

Father Mullan was a gifted teacher who taught him Latin so that he could serve at Latin Mass and he remembers sailing with Father Mullan on Strangford Lough. Geraldine McGrattan, Father Mullan's niece, spoke of their close knit family. She spoke of the musical interests within the family and also how the moves of Father Mullan to different parishes engaged the entire family.

[10] Patsy Mullan, Father Mullan's brother, recalled that on 9 August 1971, his mother got a call from Father Mullan at 3.00pm telling her not to come to visit him that day as things were not good. Because of that call, Patsy listened to all of the news reports and later that night he heard that a priest had been shot in Ballymurphy. He knew instinctively that it was his brother. He went to his mother's home and told her of what he had heard but tried to assure her that Father Mullan would be alright. When at about 1.30am Father Mullan's death was confirmed, Patsy Mullan had to break the news to his mother which led to an obviously extreme reaction.

[11] There is also evidence in the form of two letters which illustrate the high regard in which Father Mullan was held by the British Army. The first letter was dated 10 August 1971 addressed to Bishop Philbin. Lieutenant General Sir Harry Tuzo, then General Officer Commanding Northern Ireland, expressed his regret at Father Mullan's death in the following terms:

"My Dear Bishop,

Father Mullan's standing within those army units which had served in the west of the city was of the highest. We all admired his common sense, his fairness and his courage. He was indeed a fine servant of his god and of his people. This brings you the very warmest sympathy of the Army in Northern Ireland in the loss which the church has sustained. If you could find a way of

conveying these feelings to Father Mullan's relatives, I would be most grateful. I need hardly tell you of the sorrow which yesterday's events as a whole causes me. I hope to do something today, possibly with the help of some of your priests, to guard against a recurrence tonight."

[12] Another letter, of 19 August 1971, was also sent to Bishop Philbin by the then Commanding Officer of 3 Para, Peter Chiswell. In this the author wrote:

"I write to you now with a deep sense of sorrow and loss to express the sympathies of every officer and parachute soldier in 3rd Battalion, the Parachute Regiment. We knew this fine Christian man, Father Hugh Mullan, very well during our 4½ months on peace keeping duties in South West Belfast. In the face of the most appalling troubles, we found him a priest to whom we could go for help, advice, guidance and encouragement. His charm, common sense and total dedication to his parish soon won our respect. Later, as we worked together, a bond of friendship developed between us which meant so much to us all, particularly to those officers and senior NCOs who had daily contact with him. I humbly submit, My Lord Bishop, that if ever we have seen a true example of Christian courage then we have been privileged to see it in the work and ministry of Father Hugh Mullan.

I would ask you to accept from us all our deepest and most profound sympathies on the loss of this outstanding priest, and I would like you to know that sharing your own sorrow are some 500 parachute soldiers of 3 Para."

[13] The family of Frank Quinn also provided testimonials. They remember him as as a practical joker who was full of fun and laughter. His brother, Pat Quinn, told the inquest how Frank loved his life and he worked as a window cleaner. At a young age, he met his future wife Anne, and when they were both 17 they got married. Their first daughter, Angela, was born sometime after and when the family of three were offered a downstairs maisonette in the Moyard area they settled there to begin their family life.

[14] Pat Quinn recalled seeing Frank on the morning that he died and saying to his younger brother on the bus "I will see you kid." Mr Quinn recalled hearing the news of internment over radio broadcasts. His family at this stage lived in the Stranmillis area of Belfast. In a statement read to the inquests, the wife of the deceased, Anne Quinn, indicated that Frank had been unable to get to work that day because of the rioting on the Springfield Road. He was in the house all day. They lived in 49C Moyard Crescent. Anne indicated that Frank went to the front door several times during the day to see the rioting. She went to bed, with her baby daughter between 9.00 and 9.30pm. Her husband was still at home at this time she said in her statement. But early the next morning a priest called at her home and told her that her husband had been shot.

[15] Mr Pat Quinn also described the effects on the family flowing from how this death was reported. He explained to the court that local newspapers and media began reporting that those 11 people who were killed in Ballymurphy were gunmen (reference being to the 10 deaths I am examining and the death of Mr Paddy McCarthy who died subsequently of a heart attack). Mr Quinn explained how this caused particular anguish to the family and how it also affected their family life in that neighbours who had previously been friendly ignored them and sectarian abuse was directed to their home. This led to a situation where the family had to move home for their own safety and the deceased's father had to leave his job, all while mourning their loss. Anne Quinn became a widow whilst still pregnant with her

second daughter. This daughter, Angela Sloan, also told the inquest about the struggles she and her sister experienced growing up without their father in their lives and how this also affected their mother.

III. SETTING THE SCENE

[16] To obtain a sense of the area in which these deaths occurred in 1971 I have been aided by maps and contemporaneous photographs which I refer to here to assist in the reader. I was assisted greatly in this part of the inquest, as in the others, by Mr Brian Murphy of TBM Consultants who provided engineering evidence about the locus of this incident. His original report is dated 14 January 2019. It encloses 90 photographs, some original photographs and plans A, B, C and D. Mr Murphy also provided an update dated 4 February 2019 enclosing further contemporary photographs and additional plans E1, E2 and F1. Mr Murphy provided a further 'update 3' dated 1 March 2019 enclosing some YouTube footage screen shots and a further update enclosing maps Plan E and C2.

[17] In the course of his evidence Mr Murphy relied on Plan B in particular, and of use to me was a marked Plan B that Mr Murphy provided showing lines of sight from Vere Foster School to the waste ground and in relation to two lines of sight towards Springmartin flats and 21 Moyard Park. That plan is reproduced in **Annex 1.1**.

[18] I have also been particularly assisted by contemporaneous police photographs from 1971 which show Vere Foster School, the Springmartin flats and the waste ground including a photograph of a makeshift cross that was placed there after the deaths. These photographs are reproduced in **Annex 1.2**.

[19] These are important locations in the context of this incident. As Mr Murphy said himself in evidence to me, this report was more challenging for him because this incident involved multiple locations and also because this topography has

changed considerably. The Vere Foster School, Finlay's Factory and the Henry Taggart Hall are no longer in place. The Springmartin flats have been demolished and the waste ground has been built upon. In this area there is now a large peace wall. So trying to get a grip of the size and dimensions of the waste ground in 1971 and the relative distances from the buildings in issue is no easy task. As I have said, I was assisted by the plan, particular Plan B. This shows the waste ground and the main locations at issue, namely the Springmartin flats, Moyard Park and Father Mullan's property at 45 Springfield Park.

[20] I have also had the opportunity of visiting this area prior to completing my findings and I have observed the following. This area has changed, however I have noted the dense housing. Also a large 'peace wall' now divides the area of Springmartin from the Springfield Park area. What is apparent is that Springmartin is at a height, overlooking the Springfield Park area.

[21] In his evidence Mr Murphy addressed the issue of the elevation in this area. He pointed out that the area of Springfield Park and Moyard Park once had a river running through it. This river may have been piped and culverted into underground concrete pipes by August 1971 but its existence can be seen on the Master Plan running from the top left of the map across the location of the Ballygomartin Road, around the back of the even numbered houses from numbers 80-56 where it sinks underground under the waste ground. The river's path continues along the rear of houses at numbers 40-46 Springfield Park where there are again "sinks" noted on the map at the junction with the Springfield Road. Mr Murphy pointed out some significance of this as he said that there would have been the river bed, so river banks would rise to the west across the waste ground and up towards Finlay's factory, on the east through Springfield Park and up towards the Springmartin Road. In other words, this waste ground was not flat but undulating due to the presence of the river.

[22] Mr Murphy measured the elevation from the junction of Springfield Park and Moyard Park to the east and west. Rising to the east towards the location of Springmartin flats the elevation rises by 6.36 metres. To the west in the direction of Moyard the elevation rises by 7.34 metres across a distance of 111 metres. Obviously the significance of the elevation from the river bed is that individuals on the roof or upper floors of the Springmartin flats would have been at an elevated position looking down on the waste ground. This is of course self-evident from the original photographs that I have seen. If there were individuals in the gardens at the backs of houses in Springfield Park which was an issue in this case, specifically numbers 41-47, they would have been approximately at the same level as those on the waste ground in terms of horizontal position. That again is a relevant consideration.

[23] Mr Murphy was asked at some length about the issue of residents of Springfield Park and what their vision would have been to the waste ground. In utilising the photographs he reiterated his view that the back gardens of the houses at the top of Springfield Park were extremely close to the Springmartin Road. That again is evident from the photographs I have seen. Gaps between the houses and the elevation from the waste ground means it would have been possible for residents at the top end of Springfield Park to have a view across the waste ground. It would have been possible from Springfield Park to see vehicles arriving on the Ballygomartin Road. In terms of the issue of the residents moving from the Springfield Park area, Mr Murphy pointed out that residents fleeing from the top end of Springfield Park would have the option to continue down Springfield Park past the location of Father Mullan's house and out towards the Springfield Road. They could alternatively try to cross to Moyard from the junction with Springfield Park, if again that was not safe the option was to cross the waste ground towards Moyard.

[24] Finally, Mr Murphy gave some evidence in relation to lines of sight which is significant in the context of this inquest. Firstly, in terms of distances, he measured the distances in his view between the front of the Springmartin flats and the start of

the waste ground as 76 metres, the middle of the waste ground as 134 metres, and where the waste ground ends at Finlay's Factory as 190 metres. In terms of lines of sight from the various buildings, the original photographs and aerial photographs that I saw were again of most use. Film B photo 4 is a view from the area of the Springmartin flats towards the Moyard flats and the Vere Foster School. The garages beside 82 Moyard Park can also be seen, with the waste ground to the right of the photograph. Mr Murphy said that there is a line of fire from the Springmartin flats towards the Moyard flats, however firing from that approximate position towards the waste ground would require a change in angle.

[25] From the evidence it is clear that there is no line of sight between the Henry Taggart Hall and the waste ground. This is fundamentally because the hall was at a lower level than the waste ground and in addition the Moyard flats between the hall and the waste ground blocked any view. In relation to Vere Foster School there is a limited line of sight on the evidence. This is not from the lower school building to the waste ground, to where examination had clearly pointed out the presence of a sangar but from a very small part of the northwest corner where a further sangar may have been placed. This was very much a restricted view. At this point I refer Mr Murphy's plan, which is found in **Annex 1.1** setting out the lines of sight which have assisted me in relation to looking at the issues that arise from the evidence.

IV. THE PATHOLOGY EVIDENCE: FATHER HUGH MULLAN

[26] In relation to Father Mullan, Dr Carson carried out the autopsy. Dr Carson is now deceased and so he could not give evidence to this inquest. However, his report and notes are available and from that I note his findings as follows:

“The following clothing was removed from the body:

- (1) A black jacket already removed and received separately.
- (2) A black clerical shirt and white collar.
- (3) A pair of black trousers, and waistband at mid-thigh level.
- (4) A pair of black slip-on shoes.
- (5) A pair of black socks.
- (6) A white cotton vest, very heavily blood stained.
- (7) A pair of blue underpants, heavily blood stained."

The body of a middle aged man of average build, 5' 8" in height. Gunshot wounds were present in the following situations:

Chest

- (1) A fairly neat circular hole, 6 millimetres diameter on the left side behind in the line of the posterior auxiliary fold, centred 10cm. Behind and 10cm below the left nipple it was bordered by a colour of reddish abrasion 1-2mm wide.
- (2) An oval wound, 14mm x 8mm on the right side in line with the anterior auxiliary fold, centred 9cm behind and 5cm below the nipple.

Left Upper Limb

- (3) An elliptical wound with somewhat ragged margins 12mm x 4mm on the back of the lower forearm, its lower end 4cm above and 2½cm to the left of the ulnar styloid. An oval wound, 23mm x 12mm, on the front of the mid forearm, its lower margin 6½cm above the ulnar styloid.

Right Upper Limb

- (4) An elliptical gaping wound, 58mm x 28mm on the front and inner side of the forearm just below the elbow, its long axis horizontal.”

[27] The notes of Dr Carson also refer to the fact that the wounds on the left forearm were connected by a track through the tissues which pass from back to front and upwards at an angle of 45 degrees with the elbow flexed at about right angles and the arms slightly abducted and externally rotated. These wounds were roughly in line with that on the left chest. The arms both being as indicated, i.e. flexed at the elbows, the arm wounds and those on each side of the chest were roughly in the same line but this did not take account of the abdominal wound. In relation to the left lower limb Dr Carson noted a probe could be inserted in this wound in an upwards and forwards direction at an angle of about 45 degrees to the vertical.

[28] In his opinion section on the autopsy findings Dr Carson stated as follows:

“There was no natural disease to cause or accelerate death or to cause collapse ...

Autopsy revealed two gunshot wounds to the left forearm, one on each side of the chest, a furrowed wound on the right forearm, a further gunshot wound on the abdomen and yet another on the left buttock. It seemed probable, however, that all these wounds have been caused by only two bullets, apparently fired from a high velocity weapon or weapons. The wounds on the chest and forearms could be explained by a single bullet travelling almost directly from left to right, with a slight inclination upwards and forwards. The upper arms being by the sides, with the forearms flexed at the elbows, palms down. This bullet had entered the left side of the chest between the 7th and 8th left ribs, bruising the left lung and then passing through the left dome of the diaphragm before lacerating the stomach and the upper surface of the liver. It has then pierced the right dome of the diaphragm and the lower part of the right lung before leaving the right side of the chest between the 6th and 7th ribs. The other bullet had entered the back of the left buttock at a time when the left thigh was partly flexed at the hip. It had then travelled upwards and forwards and slightly to the right at an angle of about 45° to the vertical, lacerating the large and small intestine, before leaving the front of the upper abdomen, just to the right of the midline. The combined effects of the wounds caused by both bullets are likely to have proved fatal fairly rapidly but not necessarily immediately. When all of the wounds are considered together it would seem that the forearm and chest wounds were sustained first and the deceased could well have been leaning with forearms outstretched at that time, the bullet having come almost directly from

his left on a horizontal level. He may then have pitched forwards or been thrown on to his right side with his left thigh still partly placed. This would account for the track of the second bullet, that which entered the left buttock and passed through the abdomen. This bullet could have come from the same general direction as the first, possibly from the same weapon. The report of the Forensic Science Laboratory shows that at the time of his death there was no alcohol in the body.”

[29] The cause of death in relation to Father Mullan was recorded as (a) lacerations of the right lung, liver, stomach and intestines due to (b) gunshot (high velocity weapon) wounds to the chest and abdomen.

[30] This contemporaneous autopsy was reviewed by a number of expert witnesses some of whom came to give evidence before me as follows: Dr Benjamin Swift, Consultant Forensic Pathologist, filed a report dated 20 May 2018; Dr Nathaniel Cary, Consultant Forensic Pathologist, filed a report dated 15 December 2018; and Professor Jack Crane, Consultant Forensic Pathologist, also filed a report in relation to this.

[31] Having reviewed the papers there was a large measure of agreement between the experts save for one issue. As in the other inquests I recommended that the pathologists have a meeting and on 15 May 2019 the pathology experts agreed the following report:

“Under the instructions of counsel, we, Dr Benjamin Swift, Dr Nathaniel Cary and Professor Jack Crane (Consultant Forensic Pathologist) have been asked to provide a joint statement regarding our further opinions regarding the death of Fr Hugh Mullan.

A discussion took place between ourselves on 15 May 2019, at which time the issues were discussed. We have the following comments:

- (1) We agree that Father Mullan died as a result of at least two, potentially three, gunshot wounds, being likely high velocity ammunition.
- (2) We agree that it is likely Father Mullan was first shot in the left buttock, probably whilst in a crouching position. A further shot then passed across his chest whilst he lay on his back. Injuries to his arms could be accounted for by the passage of the second bullet, though we cannot exclude additional shots having caused these.
- (3) We agree that there would have been a period of initial survivability, during which Father Mullan would have been conscious, able to vocalise and move. It is likely that death would have ensued minutes thereafter.
- (4) We agree that there are no features to indicate that Father Mullan was shot at close range."

[32] The main issue which exercised the pathologists was the number of bullets. It is clear from the reports filed that there was a measure of consensus in relation to this. Dr Swift in his report referred to the minimum number of bullets required to account for all wounds described as two. Dr Cary agreed with that. Professor Crane departed from the others in that he thought that there was likely more than two

bullets. In his evidence he was almost certain that the injury to the right forearm had been caused by the same bullet that had exited the chest so dismissing any suggestion that four bullets had struck Father Mullan. He was satisfied that the bullet which caused the injuries to the left arm could have caused the injuries to the chest, thus the injuries sustained by Father Mullan may have been caused as per Dr Carson's autopsy report by just two bullets. He in his evidence however did not exclude the possibility that a separate bullet could have caused the injuries to the left arm.

[33] There was further debate about this from the point of view of the ballistics evidence and a debate ensued about the relevant expertise. Professor Crane, in particular, considered that the ballistics experts did not have the expertise to give evidence about that. I do not need at all to deal with this in much detail given the level of agreement in these matters. This court is very grateful to a variety of disciplines to help it come to its conclusion. There is a debate between the experts about who should comment on how wounds have been sustained which I understand and take into account, but having stood back and looked at the issue as a whole this is not particularly material to my determination. Indeed, as the evidence progressed and this was discussed in evidence the issue really became a very narrow one between the properly interested persons.

[34] Other complementary evidence in relation to Father Mullan came from the examinations at the time. At 8.00am on 10 August 1971 Dr W H Rutherford, FRCS, was called to the Royal Victoria Hospital and following an examination Dr Rutherford pronounced Father Mullan dead. On 10 August 1971, Royal Ulster Constabulary ("RUC") Constable Alan McCrum took swabs from Father Mullan's right and left hands. The swabs and articles of clothing taken from Father Mullan were handed over to the Department of Industrial and Forensic Science on 11 August 1971. In a deposition for the original inquest dated 26 October 1972, Victor Beavis, Department of Industrial and Forensic Science, reported that no lead residues were detected on the swabs taken from Father Mullan's hands. Mr Beavis

also examined Father Mullan's articles of clothing, which he explained revealed the presence of a number of holes consistent with bullet holes. He said that "some of these can be grouped as having been caused by the same projectile and on account of this I feel that only two bullets have struck the body. It is not possible to relate the dimensions of the holes in the clothing to a calibre of bullet or to indicate the range at which the weapon was fired."

V. *THE BALLISTICS EVIDENCE: FATHER HUGH MULLAN*

[35] A number of ballistics experts gave evidence in this case having filed reports. Again, they helpfully met and filed an agreed statement; that is the statement from Jonathan Greer, Mark Mastaglio and Anne Kiernan dated 16 May 2019. It is based on the description of the wounds provided in Dr Carson's reports, Victor Beavis' examination of the clothing and the post mortem photos. The experts stated as follows:

- "(1) The wounds could have been caused with the entry and exit of two, three or four fired bullets – it is not possible to definitively determine the exact number.

- (2) The wounds to the chest, abdomen, buttocks and right arm due to their extent must have been caused by rifle bullets. The wounds to the left arm may have been caused by the passage of a destabilised rifle bullet or fragment but one cannot rule out the possibility of a pistol calibre bullet having been responsible.

- (3) It is likely that the shots to his left chest and left buttock were direct shots i.e. they had not struck an intermediate object.
- (4) The calibre of rifle(s) used cannot be determined solely from the wound ballistics – the size of the entry wounds and the extent of the injuries are in keeping with 7.62 x 51mm or any other nominal 0.30 calibre or similar calibre.
- (5) FSNI research has shown that the only known 7.62 x 51mm calibre rifles in use in Northern Ireland at that time with 6R rifling were the SLR and FAL type rifles used by the British military, FSNI (AIPJG) contend that these rifles were also in the possession of both republican and loyalist groups.
- (6) Additionally, we cannot rule out the use of another unknown weapon with the same rifling characteristics.
- (7) There was no indication of any propellant or soot on the body. However, we do not know if the clothing had been examined for close range effects.
- (8) The bullets that caused the wounds to the arms and chest were discharged from the decedent's left and the bullet responsible for the wounds to his buttocks from his left and to his rear.

- (9) The shot hitting the decedent's left buttock indicated that he was lying down, kneeling or crouching when he received this injury. If the wounds to his arms were caused by the same bullet(s) then his arms would have been by his chest when he received these injuries.
- (10) Differences in the bullets' trajectories could be explained by changes to the decedent's position/orientation and/or the shots being discharged from different positions.
- (11) It has not been possible for us to determine the order of the shots.
- (12) It is not possible to determine if the decedent was standing or moving when he was shot.
- (13) One cannot determine from solely the wound ballistics where the decedent was when he was shot nor from what location(s) he was shot from."

[36] I also directed that searches be undertaken by Mr Greer in relation to intelligence records concerning Self Loading Rifles ("SLR") weapons and by letter of 21 May 2019 a reply came back as follows:

"In relation to CIFEX Computerised Firearms Incident Records. This states:

CIFEX Computerised Firearms Incident Records began in September 1971. The database on which they are held is

referred to as DART (discharged ammunition research tool). This is the same source originally referred to as PSNI Firearms Incident Records which was used to produce the information in the email by CIFEX and shared with FSNI on 2 May 2018. The original search was from June 1971 to June 1973 one year either side of the murder/fatal shooting of Marian Brown on 10 June 1972. This was designed to identify firearm types which were available to terrorists at that time. In June to August 1971 the data base is sparsely populated with some incidents added retrospectively prior to its initial use from September 1971 onwards. Hence, comprehensive records are not available for August 1971. The following search may help give an indication of what firearms were available to terrorists in August 1971.

I have conducted a search until the end of 1973 of recovered firearms in 7.62 nato (7.62 x 51mm) calibre with model code LIAI which is the military designation for the self-loading rifle issued to the British Army in that era. Following an error identified with the figures reported on Friday 17 May 2019 (see the revised figures below):

I have identified 29 recovered firearms. Attributed to both loyalist (9) and republican (20). The first recovery of an LIA from an incident attributed republican is 13 October 1971. The first recovery of an LIAI from an incident attributed loyalist is 1 February 1973. Of the 29 firearms recovered during this period we have stolen dates for 14, only two of which were stolen prior to August 1971. The remaining 15 we do not have the stolen

date for them. Clearly, I cannot establish when these firearms were acquired by either faction and therefore if they were in their possession in August 1971. No bullet fragments were found in the body of Father Mullan.”

[37] It was also clear from the hearing of the evidence that on the basis of wound ballistics alone there could not be a determination of where Father Mullan was positioned when he was shot. However, all of the experts agreed that Father Mullan died as a result of at least two, possibly three gunshot wounds but it is not possible to determine the exact number. The ballistics experts consider that it may have been up to four shots. In terms of the position of the body it is clear from the evidence that all of the experts considered that the shots to Father Mullan’s left chest and left buttock were direct shots that had not struck any intermediate object. According to the pathologists the gunshot wounds were likely caused by high velocity ammunition, although the ballistic experts said that this could not be determined solely from wound ballistics. The issue was debated in relation to the type of weapons which could cause such an injury and that led to the investigation from Centre for Information on Firearms and Explosives (“CIFEX”) which I have referred to. It is also clear from the evidence that the shots came from the left of Father Mullan.

VI: THE PATHOLOGY EVIDENCE: FRANCIS QUINN

[38] The original pathology evidence in relation to Frank Quinn is also found in the report of Dr Carson who undertook the autopsy at the time. I have seen the report and notes of Dr Carson, which stated as follows:

“Firstly, the following clothing was first removed from the body:

- (1) A brown cotton sweater with long sleeves, buttoned up to the neck, blood stained around the collar and also in a patchy fashion elsewhere.
- (2) A purple short sleeved T-shirt.
- (3) A pair of calf length brown laced boots.
- (4) A pair of brown socks.
- (5) A pair of blue jeans held up by a stout leather belt.
- (6) A pair of white underpants."

[39] Dr Carson reported that there was a gunshot wound to the back of the head just above its junction with the neck and within the hairline. It was an oval hole, 14mm x 8mm centred 3cm to the right of and 4cm below the external occipital protuberance. There was a small area of bruising on the right cheek with a visible and palpable swelling of the tissues of the cheek. When the mucosa was incised from within the mouth a spent bullet was found overlying the outer surface of the upper jaw at this point. The bullet, 29mm long and 9mm diameter was pointed and of a copper jacketed type. The pointed end was bent as by impact. Dr Carson recorded in his opinion on the autopsy findings as follows:

"The young man was healthy. There was no natural disease to cause or accelerate death or to cause collapse.

Death was due to a single gunshot wound of the head. The bullet, of 7.62 calibre had entered the back of the head near its junction with the neck and about 1" to the right of the midline. It had then passed forwards, and

somewhat downwards and to the right through the lower part of the right side of cerebellum, or hindbrain, and had lodged beneath the lining of the right side of the upper jaw. The brain injury would have caused immediate unconsciousness and probably fairly rapid death. If the deceased was upright with the head erect at the time, then the bullet must have come behind him and from somewhat above him and to his left.”

[40] This report was reviewed by the experts in the case, namely Dr Swift, Dr Cary and Professor Crane. There was a large area of agreement in relation to the cause of death in this case from both pathology and ballistics as explained by:

- (a) The cause of death, single gunshot wound to the back of the head;
- (b) The fact that the weapon used was a high velocity weapon; and
- (c) The fact that the bullet recovered from the deceased had been fired by a 7.62 calibre rifle, the weapon used by the British Army in August 1971.

[41] A number of other issues arose in the case of Mr Quinn from both the pathology and ballistics point of view, namely whether or not the bullet had struck through another person before entering the body of Mr Quinn. Also an issue arose in relation to the examination of Mr Quinn’s hands as a result of swabs taken in 1971. If I deal with this latter issue first. This issue arises on the basis of a deposition of Victor Beavis, of the Department of Industrial and Forensic Science dated 17 February 1972. There is a handwritten addition to the deposition and in relation to Francis Quinn which has been transcribed as follows:

“It is fairly uncommon for the ordinary person to come in contact with lead. I was more interested in the

distribution of this lead than its presence. There were six swabs. I found small amounts on the back of his right hand more on his left. I would state with certainty that the deceased was in close proximity with a discharging weapon. I could not say if he fired himself. Normally I would have expected to find more if he had discharged the weapon himself. If a weapon is fired there would be a deposit of other metals as well especially barium (lead) and antimony but they require very sophisticated apparatus and tests and I did not test for these. It is not usual to do so. It could be done in English laboratories. One would also expect a deposit of nitrates, that was the old test but it is not so accurate and not done now.”

[42] Death was pronounced by Dr W H Rutherford, FRCS. In his 1972 deposition, Dr Rutherford explained that he examined the body of a deceased person in an ambulance outside the Royal Victoria Hospital. The body was in the same ambulance as that of Father Hugh Mullan. Dr Rutherford was told that the deceased was Frank O’Neill (as opposed to the correct name, Francis Quinn), of 49C Moyard Crescent, Belfast. On 10 August 1971 RUC Constable Alan McCrum went to the mortuary at Laganbank Road, Belfast, and took swabs of the right and left hands and took possession of the clothing. Mr Beavis then examined the swabs and gave evidence at the inquest of Francis Quinn in 1972.

[43] This issue of testing is examined by the ballistics experts, in particular the expert Mark Mastaglio who filed a report dated 14 November 2018 with Angela Shaw. In that report they commented as to the type of tests that were and were not available in the 1970s (principally the absence of the SEM-EDX test), they explained that the sodium rhodizonate test used by the Department of Industrial and Forensic Science in the early 1970s was limited and tested only the presence of

lead. In the report dated 14 November 2018, Mr Mastaglio and Ms Shaw concluded that:

“Lead is a component of CDR therefore a positive result for lead, depending on the case circumstances, may indicate the presence of CDR. Mr Beavis stated with certainty that the deceased was in close proximity with a discharging weapon. I could not say if he had fired himself. Normally I would have expected to find more if he had discharged the weapon himself. This opinion does not take into consideration other possible sources of lead at the time such as lead bullets, fragmented lead bullets, contaminated sources such as military vehicles, ambulances carrying those with gunshot injuries or leaded petrol.”

The opinion continues that:

“Along with lead other metals are deposited from the firing of a weapon and could be analysed for using sophisticated apparatus not available at the time. In the absence of analyse using SEM-EDX, it is not possible to conclude the specific source of the lead particles found on Mr Quinn’s hands. Possible sources include contact with any source of lead, discharging a weapon, or being exposed to the discharge of a weapon.”

[44] In a joint report dated 15 May 2019 the consultant pathologists, namely Dr Swift and Dr Nathaniel Cary and Professor Jack Crane agreed the following in relation to the pathology of Mr Quinn:

- (a) Mr Quinn died as a result of a single high velocity gunshot wound to the head.
- (b) It is likely that Mr Quinn would have been rendered immediately unconscious and that death would have ensued soon afterwards.
- (c) There are no features to indicate that Mr Quinn was shot at close range.
- (d) With regard to the ballistics evidence suggesting that the bullet had already passed through an intermediate target before hitting Mr Quinn, Doctors Cary and Swift agree with this proposition. However, Professor Crane was of the view that it was not possible to come to this conclusion based on the pathological findings (specifically, in his report, Professor Crane stated that the entrance wound described by Dr Carson was oval in shape with slightly ragged margins). However, in his opinion this did not necessarily mean that the bullet was not in stable flight. He stated that the oval or elongated nature of the entrance wound may indicate no more than a non-orthogonal strike i.e. the bullet did not enter at 90° to the skin surface. He stated that to suggest that the bullet passed through another body is purely speculative. In Professor Crane's opinion the bony structures of the head would undoubtedly have caused significant retardation of the bullet.

VII: THE BALLISTICS EVIDENCE: FRANCIS QUINN

[45] There is other evidence in relation to this issue which was placed before this inquest. In particular, I received written evidence from Mr Leo Rossi who had conducted an examination of the bullet on behalf of the Historical Enquiries Team ("HET") at an earlier stage and stated as follows:

"I did not see any evidence of marks or material on the bullet surface indicative of ricochet damage. I am

content that the bullet struck the deceased as its primary target. There is no evidence of the bullet having struck an intermediate target.”

[46] The issue therefore arose around whether or not the bullet was a direct hit on Mr Quinn or whether it passed through another person before hitting Mr Quinn. I will obviously consider this in the round given other evidence that I have to consider, namely and, in particular, evidence of civilian witnesses. The ballistics experts jointly produced a joint note in relation to Mr Quinn which stated as follows:

“14. The decedent had been shot once in the back of the head with a 7.62mm calibre rifle.

15. The bullet which had passed downwards and was recovered from the right side of the cheek was inscribed with rifling marks from the gun that had discharged it.

16. The bullet was identified as being identical to L2A2 military ball ammunition issued at the time.

17. The rifling marks were of the same general class (in number, direction and dimensions) as the rifling used in L1A1 SLR. However, there are other 7.62mm v 51mm calibre rifles that have similar rifling characteristics.

18. FSNI research has shown that the only 7.62 x 51mm calibre rifles in use in Northern Ireland at that time are used by the British military. FSNI

(AIPJG) contend that these rifles were also in the possession of both republican and loyalist groups.

19. Additionally, we cannot rule out the use of another unknown weapon with the same rifling characteristics.
20. There was no damage to the bullet to indicate that it had ricocheted from a hard object.
21. The bullet tip was bent and the lead core was partially extruded - both phenomena are typical of this type of bullet passing through tissue.
22. The circular entrance wound in the skull could indicate the bullet struck base first or tip first, the elongated wound in the skin probably due to the bullet striking at an angle or in yaw and/or the head tilted.
23. The lack of damage to the bullet and the relatively small amount of disruption to the decedent's head indicates that the bullet had lost a significant amount of kinetic energy before it impacted the decedent.
24. In our view it is highly likely that the bullet had passed through another individual, possibly Father Mullan, or an unknown person, before it struck in the decedent.

25. It is not possible to determine if the decedent was stationary or moving when he was shot.
26. One cannot determine from solely the wound ballistics where the decedent was when he was shot nor from what location he was shot."

[47] In his oral evidence Dr Swift summarised the position as follows:

"Having reviewed the latest ballistics reports and with knowledge that it was a high velocity bullet that had entered into Mr Quinn's head and in doing so had not caused massive disruption of the skull but that also this bullet had not exited the head ... it would appear to indicate that that bullet had been slowed down in its passage prior to hitting Mr Quinn. My understanding is that this is also the opinion of Dr Cary. Having discussed with Professor Crane, my understanding from those discussions is that he accepts that it is likely that the bullet had been slowed down but he is unable on the pathological, based purely on the pathology, to conclude that that means that there was an intermediate target."

[48] Professor Crane explained his position in evidence and made it clear that he was not stating that this was an explanation for the nature of the injuries sustained by the deceased and the failure of the bullet to exit the deceased's head, rather he indicated that another possible explanation was the range from which the bullet had been fired, whilst accepting he was not excluding the possibility of the bullet having passed through an intermediate target.

[49] Dr Cary also gave evidence and explained his position in relation to this matter as follows:

“The first thing I should say is that I have quite a lot of experience in this area of high velocity gunshot wounds to the head, having looked at soldiers who came back from the second Iraq war and continue to come back from various conflicts in Iraq and Afghanistan. So I am familiar with the territory and what your expectation as a pathologist may be and it is fair to say that the first expectation would be a high velocity gunshot wound to the head would usually exit; the second point to make is that as was rightly pointed out by Professor Crane, these bullets are associated with a large amount of energy and if the bullet stays in the head, that energy can only be dissipated within the head through breaking bones, primarily or causing a temporary cavity effect on the brain and in this case, although there was some damage to the base of the skull, it was not equivalent to what I have seen in other cases where it is literally shattered by the passage of the bullet and the dissipation of energy. So to me there is not enough evidence of any dissipation that might be anticipated. I do accept, though, what Professor Crane had to say about if a bullet was from a distant range that could be an alternative explanation for it losing its power. Although my understanding of 7.62 bullets fired in a conventional rifle would be that the range is considerable and it may be divided into what we termed an effective range where it could still be reasonably accurate and then a range beyond that”.

[50] I pause at this point to mention evidence that I heard about the potential ranges of the areas. Some evidence was given by Mr Mastaglio that the range of this rifle was roughly 300 metres. The various areas where this could have emanated from were given as follows: Springmartin flats to centre of waste round - 144 metres; Finlay's Factory to centre of waste ground - 135 metres; Vere Foster School to centre of waste ground - 203 metres; and Henry Taggart Hall to centre of waste ground - 202 metres.

VIII. THE CIVILIAN EVIDENCE

[51] I now turn to the civilian evidence in this case, which was presented to me in various different forms. A considerable amount of the evidence came by way of Rule 17 and so it was read into the record and came before me without being tested in evidence. However, other evidence was given orally and it is this which I will concentrate on at the outset. Again I repeat my position that there is no bright line rule about the efficacy of evidence. Some of this evidence was supported by contemporaneous statements, some was not. Some of this evidence altered whilst in the witness box when plans and photographs were presented to witnesses. I bear in mind the obvious frailties of recall after this period of time. I also bear in mind that witnesses were asked at length about various matters and that it was somewhat unfair to ask witnesses to forensically examine locations and events so far on. However, a broad overriding picture can be given and the first place to start is with those witnesses who can give evidence of what actually was happening on the day in question. There are different categories of witness here as well, in relation to what can be said.

[52] There are witnesses who talk about the events earlier in the day at Springfield Park when residents moved due to inter-factional disturbances with the residents of Springmartin. There are then witnesses who can talk about what happened on the waste ground. There are also witnesses who can talk about the aftermath and the movement of bodies. Finally, there is a general cadre of witnesses who can talk

about what was happening in the area generally at the time in terms of shooting and the presence of armed persons in the area. So each witness has something to add and this is very much a case where various strands have to be drawn together to see whether or not a coherent and valid narrative can be formulated.

i. Oral Evidence

[53] First I turn to the direct oral evidence as to events that I heard from seven main witnesses. They are: Mr Bobby Clarke who lived at 60 Springfield Park; his brother, Mr Gerald Clarke, who also lived at 60 Springfield Park; Mr Michael Doherty who lived at 76 Springfield Park; Mr Terence Curran who lived at 90 Springfield Park; Mr Gerard McCaffrey who lived at 84 Springfield Park; Mr Jackie Burns who lived 86 Springfield Park; and Mrs Jane Molloy who lived at 98 Springfield Park.

[54] I start with Mr Bobby Clarke who came and gave evidence to me and who is an important witness in this inquest, given what he said. Mr Clarke's evidence emanated from a number of sources, which is important to recount. Firstly, he gave evidence at both of the inquests in 1972 and I have before me his depositions in the inquest of Francis Quinn, dated 17 February 1972, and also his deposition in the inquest of Father Hugh Mullan, dated 26 October 1972. Mr Clarke has direct recollection of events and he was interviewed by RTE on 10 August 1971 and a transcript of that interview was made available to me. I also received a transcript of a YouTube video of Mr Clarke being interviewed on 16 February 2011. He had a meeting with HET on 21 July 2008 and I have read that, which is provided in some detail. There was a further interview on 2 November 2010, which I have also read.

[55] There is an interview with Frank Martin, a journalist, with both Mr Clarke and his brother which was also put before the court. There is also his own booklet and story provided and a recollection from this is available from St Mary's College in August 2007. Other material relates to being interviewed in various media outlets

and I have considered all of this. Mr Clarke also made a statement to the Coroners Service which is dated 19 July 2017. The court has also been referred to an interview conducted with Mr Clarke for the Nolan Show in May 2018. I also received some photographic imagery of Mr Clarke's injuries from the day in question and in the witness box Mr Clarke showed me his injuries which occurred to his own back as a result of events in the field.

[56] There is obviously then a large body of material from Mr Clarke. I pause to observe though at the very start of his evidence unprompted he said this: "soldiers in Springmartin didn't shoot me, it was ground level from Springhill Park," and he believed it was the Paras. Mr Clarke also said that he made a statement shortly after events to the police where he advised that he had been shot in the field. He thought this was one week after the incident but he did not know why that had come about. He also confirmed that he obviously knew his brother, who had been with him in the field, although their accounts differ as will be seen. He knew Mr Gerard McCaffrey who was a footballer and a neighbour.

[57] The short interview with RTE is first in time. RTE were obviously reporting on this issue and were particularly interested in the death of Father Mullan. In answer to the question "Well what happened?" Mr Clarke said this:

"Well I was moving children from Springfield Park over to Moyard for safety. I had just got one over and noticed two soldiers on top of a roof in Springmartin, they watched me bringing the child over and as I went back into the fields to go to Springfield Park to collect more, a soldier opened fire and hit me across the back. I lay and then I shouted to one fellow that I had been hit. At that, about 8 or 9 fellas came and seen that I was injured and told me not to move till they got a stretcher and then the priest came and he anointed me. He asked me if I had

any qualms about going to a hospital and I told him no, I had not been shooting just moving children and he went to ring for an ambulance and he was shot from a burst of fire from the soldiers – the same soldiers that shot me must have shot him.”

[58] In the course of this interview he was also asked, “Do you think that it was clear enough at the time for British soldiers to know whether it was a priest?” The answer is this:

“British soldiers watched me carrying the child and then shot me after I left the child down. They knew the priest was giving me the last rites and it was clear enough daylight when he went to phone an ambulance he was shot down.”

Interviewer: “Do you think that they could see clearly?”

Clarke: “Clearly.”

Interviewer: “That you were carrying a child clearly and could see clearly that there was a priest ministering to you?”

Clarke: “They could see clearly enough that they could shoot me and shoot him. They could see clearly enough that he was a priest, positive.”

[59] In his deposition, which is first in time, to the Francis Quinn inquest Mr Clarke again reiterated that he remembers 9 August 1971. He was at

60 Springfield Park, his house, that night but he said he had to move his family out because of the troubles. He said he returned to his home about 8.00pm and noticed a group of people at 80 Springfield Park. He then went with this group from number 80 to 64 Springfield Park which he found packed with women and children. He said he then went with one child from this house towards 80 Moyard Park to see if it was safe to go there. He placed the child and woman there. He returned and halfway across (meaning the wasteland) there was a sniper shot which he said struck him on the back. In this deposition he said "it came from a roof in Springmartin where I had seen some soldiers about 20 minutes earlier." He then said "a group gathered around my brother and me, Gerald asked if I could move my leg." Then Father Mullan came towards him and later left him to go for an ambulance. He said he heard a burst of fire and screaming, there was a second burst of fire and he screamed out loud again. He said "the shots were directed towards where we were. My brother said he had not been hit but the head of a chap lying beside him fell back to the ground."

[60] In this deposition Mr Clarke said "we crawled away in the longer grass towards Finlay's Factory and lay there till it got dark. While waiting there we were fired upon from the factory and it sounded a different type of weapon." He said he did not see this man whose head fell back to the ground when hit and he did not know who he was. He said he was taken to a first aid post about 10.45pm when it was dark and the following Tuesday he made a statement to police concerning Father Mullan's death and he mentioned that another man near him appeared to have been shot and he did not know who he was. In this deposition he finished by saying "whilst I was in the field I did not see anyone discharge a gun. The man who had dropped was about 20 years old."

[61] There is some more detail in the deposition given to Father Mullan's inquest, the first part of which talks about moving the child over from No. 64 Springfield Park. This deposition also confirms that on coming back he was shot in the waste ground. In this deposition Mr Clarke said "I shouted I had been hit" and a short

time later after that some people came over to him. He then referred to the priest, Father Mullan, who he said "came up to me and I noticed that he was carrying a white cloth, like a handkerchief, in his hand and then he anointed me." In this deposition Mr Clarke said "he then asked me had I any embarrassment about going to the hospital and I told him no. I told him I had not fired a stone never mind a gun."

[62] Mr Clarke said there was some discussion about where the nearest telephone was and the suggestion was that it would be at the flats in Moyard or his own house. He then said "Father Mullan moved about 15 yards from me when I heard some shots and then I heard him shout and I looked back and I could see him on his back. He was clutching his stomach with his knees bent and he was moaning." Mr Clarke said:

"There was a young fella beside him and I noticed he was wearing a blue denim suit. He was on the ground, with the priest trying to keep him steady and then there were more shots. The priest seemed to be hit again and the fella was hit in the thigh. The shots then came to where we were and the fella who was trying to attend me was hit, I think on the head."

[63] He then refers to himself and his brother sliding away in the grass until approximately 10.45pm when it was dark. He said during this time they were again shot at from about the Ballygomartin Road/Finlay's Factory car park. He then referred to being taken out of the field and tended to.

[64] In his evidence Mr Clarke reiterated all of this. He also told me that he thought Father Mullan had been hit by two rounds of shots. He also disputed the account of IRA gunmen in the area and when asked about his brother's account said that this was wrong and that he must have been drinking. I appreciate that

Mr Clarke is now 85 years of age. Notwithstanding that, he was robust in his evidence although some details were given in a way that could not be exact which I understand. However, he was consistent about the fact that he was shot in the field on his way back from carrying a child over from Springfield Park. He was consistent that Father Mullan was carrying something white when he came to him, attended to him and then was shot and another man was shot who he did not know. Potentially there was another man shot in the vicinity of him. There is a difference between his evidence and his original statements, because in his original statements he said that he thought he was shot by soldiers from the Springmartin flats at an elevation but in his evidence to me he thought that he was shot by soldiers in the backs of gardens, so on the same level as him from the gardens in Springfield Park.

[65] Mr Clarke was also adamant under questioning that there had been no gun battle in Springfield Park before he started assisting people to evacuate. In his evidence he also referred to the fact that having seen soldiers tracking at Springmartin he decided to zig-zag on his way back and that is when he was shot. When Mr Clarke showed me his wounds in the witness box he pointed out an entry wound to the right side of his spine and an exit wound to the left side. In his evidence Mr Clarke also said that no shooting as far as he understood was coming from Moyard flats.

[66] The next witness who gave evidence to me about these events is Mr Gerald Clarke, who is the brother of Mr Bobby Clarke. Mr Clarke's evidence is found in a number of places. Firstly, his statement dated 17 February 1972 into the death of Francis Quinn. Also a statement or deposition and record of oral evidence dated 26 October 1972 into the death of Father Mullan. Mr Clarke was interviewed by HET and there is a typed transcription and record of the oral evidence given to Father Mullan's inquest of 26 October 1972 from that source. There is also the transcript of an interview conducted by Frank Martin with both brothers in July 1998 and finally Mr Gerald Clarke made a statement to the Coroner's Investigator dated 25 April 2018.

[67] In his deposition to the Coroner Mr Clarke said he was 18 years old in August 1971 and was living with his brother and family at 60 Springfield Park. He said he had moved there at the start of the Troubles as Springfield Park was a mixed area. There was no sectarianism in Springfield Park; it was made up of young families from both Protestant and Catholic backgrounds. He then said he woke up on the morning of 9 August awakened by his brother to tell him that the Army was interning everybody. He referred to the situation in Springfield Park. He said in his statement:

“When I got back to Springfield Park (taking the same route as before) adults with young families in Springfield Park asked me to go over to Ballymurphy with them. I can’t remember their names. We went over to the Ballymurphy estate (same route) and talked to certain individuals (I do not wish to supply names) the adults were worried that they wouldn’t be able to defend their homes from the loyalist crowd which had been gathering at Springmartin, which stood on the other side of the fence beside Springfield Park. These individuals told the adults that they would supply them with personnel to help them guard their properties. However, they would not furnish them with firearms. There was a strict warning that if a firearm was used there was no going back.”

[68] Mr Clarke said that there was meanwhile rioting taking place at Henry Taggart Hall. He described this as social rioting which involved youths throwing stones. He gave some evidence in relation to the situation at the Springfield Park/Springmartin interface. He said he heard a shot fired from a shotgun into Springmartin, he saw a man armed with a shotgun run down the

driveway from a house between 116-126 Springfield Park. He said shortly afterwards a fella ran up to him and handed him a double-barrelled shotgun and a bag of cartridges. He does not know the identity of this man. He also said "the next thing two lads (I do not know who they were) took the gun from me they said they were told to take it." He said he saw a chap from Ballymurphy whom he knew on his hunkers, who he named as 'Pistol Shooter,' as he pointed the pistol downwards and he shot it and it blew back into his right shoulder. Simultaneously, he also saw a neighbour of his, a Mr McNulty, in his own back garden with his hands on the top of his head and he noticed a soldier pointing a pistol at him in his back garden and taking the weapon off him. He then said that he went to the back of his house, across the field to the back of the garages, while crossing he saw the pistol shooter also run across the field but he did not see him again on that day.

[69] He said he saw two men standing at the garages before the Moyard flats, they were attempting to shoot at the soldiers who were positioned on top of the flats at Springmartin. He said the soldiers, who he could see clearly, had black berets on and an olive uniform, and they were armed with SLRs. He said these two men were not the same persons who took the shotgun from him earlier. They did have a shotgun and either a bag or box of ammunition. They stood on the right hand side of the garages, if you were facing them, about two metres in front of him. He said he watched them load the shotgun and attempt to shoot twice aiming at the soldiers. The shotgun did not appear to function. Even if they had been successful it would not have reached the soldiers who had been well out of range.

[70] He then refers to further shooting coming from the soldiers and he said "the next thing I hear is a shout 'there is somebody coming across the field.'" He said he saw somebody in front of him hand over a child at the side of the flats. He said that he couldn't see this person and there was a burst of gunfire and he moved up to have a closer look and saw his brother run and then go down. However, he did say that he saw two men standing at garages before the flats in Moyard, confirming what he said in his previous statement.

[71] Subsequent to his evidence, Mr Clarke provided me with the names of the two persons he saw in the area who he said were known IRA men. I provided this information to the parties who conducted their own checks in relation to these men both of whom are deceased. Specifically, the Crown Solicitor's Office ("CSO") informed the Coroners Service for Northern Ireland ("CSNI") in an e-mail of 17 April 2020 that there was some material the CSNI may want to examine in relation to the two individuals. As a result of these enquiries further submissions were received. Also, other material was provided via the Police Service of Northern Ireland ("PSNI") which I was told emanated from the fact that Senior Counsel for the MoD and PSNI in the Springhill inquest were recently reviewing material.

[72] I have reviewed the material received in relation to this issue. It does not mention these events at all. It is comprised of intelligence material, however, which does mention the two men named by Mr Clarke and so I directed that a gist of it be provided. There are two folders, one on each man. This contains intelligence material and also open source material. In particular, there is open material relating to the fact that one of the men named Patrick Mulvenna was shot by the military on 31 August 1973, along with a Mr Jim Bryson, and was said to be a member of the IRA. The other person, Francis (Hank) Lavery is named as a person thought to be a member of the Provisional IRA in Ballymurphy. In relation to him there is a reference I have provided that in June 1971 he was "said to have been actively involved in shootings and other incidents in the vicinity of the Henry Taggart Memorial School", although there is nothing specific on this man in relation to this incident on 9 August 1971.

[73] The import of all of this is that there is evidence that these two men had known IRA associations and so Mr Clarke's evidence was credible in that regard.

[74] Mr Gerald Clarke came across as a very straightforward witness who found this episode traumatic and emotional. I am grateful to him for giving the evidence

which he did. Particularly, I bear in mind that his account differed from that of his brother and that must have been difficult for him to deal with. In this respect I note that the next of kin view his evidence as entirely unreliable and I will assess that in the round in relation to this case.

[75] The next civilian witness who gave evidence to me that I wish to deal with is Mr Michael Doherty of 76 Springfield Park. Mr Doherty provided a statement to the Coroner's Investigator dated 23 May 2018. He did not provide a contemporaneous statement. Reliance was placed upon an interview that he gave to, presumably, Mr Paul Mahon which contains the date of 23 March 1999. He gave evidence to the court orally in February 2019. In terms of the evidence, the salient facts are these. Mr Doherty lived with his family very close to the home of the Clarkes at 76 Springfield Park. He described that in the weeks prior to 9 August 1971 there had been tensions between the residents of Springmartin and Springfield Park and that residents actually had to patrol the area because of threats from Springmartin at night. So the residents of Springfield Park had had to block up the back of their homes. He said that on 9 August 1971 persons from Springmartin had been attempting to come through the back of the railings into Springfield Park so he thought that, in his words, Springfield Park was under siege.

[76] Mr Doherty's interview with Paul Mahon also referred to what he saw in the empty Springmartin flats. He said he could see persons at the windows of the flats. He said he saw two men on the upper floors who used handguns around 6.00pm and that they were definitely not soldiers. However, he then in his interview said that he only saw one handgun and that these people did not shoot anybody. He also refers to the fact that he was aware that Harry McNulty was in possession of a legally held shotgun and had been arrested. His aunt, Joan Connolly, is one of the other deceased in these inquests, and in his interview he said that at approximately 7.00pm he saw Joan Connolly come up the street looking for her two children. At about this time in his interview he said that all shooting started from everywhere and he was caught in crossfire from the back of the Taggart Hall and from Saracens

above Springmartin Road. He said he got down behind a wall and was pinned down for 20 or 30 minutes. When asked to describe the gunfire he stated "very heavy from both directions. We were lying behind a 3 foot wall and bullets seemed to come from every direction."

[77] The next civilian witness that I intend to comment upon is Terence Curran. He made a deposition for the inquest of Father Hugh Mullan which is undated and suggests he was not actually called at the inquest. He has also provided a statement to the Coroner's Investigator dated 22 January 2019 and he gave evidence before me on 14 February 2019. It must be noted that this witness did not observe the actual shooting of Father Mullan or Francis Quinn. However, he lived at 90 Springfield Park at the relevant time and so he gave evidence about what was happening in the area. In particular, he indicated that there was tension between the residents of Springmartin and Springfield Park. In fact, this witness only came forward whenever he saw the Coroner's press release for the inquest at the end of 2018 and made his statement in 2019. He told me that he lived at 90 Springfield Park with his wife and her eight week- old child. He also referred to the fact that on the night in question crowds from the Springmartin estate were throwing stones into Springfield Park from 7.30pm. The estate ran close behind where he lived and he made the point that there was limited separation by way of flimsy enough wire fencing between the two areas. His house was at the top of the bend of Springfield Park. He said the crowd that were throwing stones were Protestants.

[78] In his original deposition Mr Curran said that he had spoken to Father Hugh Mullan at about 9.00am on the morning effectively to ask for assistance for the local people. In his statement to the Coroner's Investigator he said that that should actually be 9.00pm by which stage his wife had left the home due to stone throwing and there was a considerable crowd at the rear of his house, which he estimated in his statement to be perhaps 100 in total who were throwing and shouting abuse. He makes the point that he had to get away as quickly as possible that his wife was panicking and when she got to the door she could not leave the house. He was

carrying the baby. Mr Curran referred to his neighbour, Gerry McCaffrey, who came along and helped his wife to leave and guided her down the path. Mr McCaffrey lived three doors away and this witness indicated that he was quite famous in the area because he played for Glentoran. He then said that the family walked quite fast down the park and went to a house owned by a Mrs Tully for refuge.

[79] In his statement Mr Curran said he recalls hearing gunfire from about 8.00pm coming from the direction of Springmartin. He said it was rifle fire and it came in bursts. He then said he recalled residents of Springfield Park running down towards the Springfield Road around about between 8.00 and 9.00pm but still in daylight. He said he was looking out the sitting room window of the Tully's house and had a very clear view. He said that the Army came up Springfield Park, they were paratroopers as they had red berets on and they were on foot, possibly five or six of them. He said the Army initially stopped the residents and looked as if they were going to search them. The Army and residents then took cover as gunfire started again. He said he thought it came from the direction of the rear of the house and the Army told the residents to leave the area before making their way up Springfield Park. He said the Army did not return fire at that time. In his statement Mr Curran also said that when he went back to check on his house that night around 11.00pm to midnight he saw two bullet holes, one through his bedroom window and one through his bathroom window.

[80] Mr Curran said that a few days later the Army also looked around his house and he showed the soldiers the bullet holes in his home. During this interaction he said that one of the soldiers took out a pen knife and dug a bullet out of their bathroom wall. The soldier told him it was a 0.45 round which would have been fired from a Thompson submachine gun and he also said to him "they went a bit mad that night." Mr Curran said he took this to be a direct reference to the people of Springmartin and what had happened on 9 August 1971. He made the point that when he spoke to Father Mullan at 9.00pm on the night in question Father Mullan

was in his hallway and Mr Curran said he was asking the Army to come and help them and he was on the telephone with the Army at Paisley Park. The witness said that when Father Mullan was finished he told him that the Army were not coming to help them but they were on their own. He could not recall any other details.

[81] Margaret Curran, the wife of this witness, also made a statement which was read in under Rule 17. Mr Gerard McCaffrey also gave oral evidence to this inquest. There are a number of sources of evidence from the time, firstly, a statement made to Thomas Glynn at the time dated 27 August 1971.

[82] Mr Gerry McCaffrey made a deposition dated 26 October 1972 at Father Mullan's inquest. I was also referred to a transcript from a documentary "A Million Bricks" in which Mr McCaffrey made some comment about events and a statement that he made to the CSNI dated 7 February 2019. It is clear that Mr McCaffrey gave evidence to the 1972 inquest. It is also significant that he made a statement only 18 days after events on 27 August 1971. It is thought that these statements, which are signed by a Thomas Glynn, were taken on behalf of the Roman Catholic Church by the Central Citizens' Defence Committee ("CCDC") however no more exact information about them has arisen during the course of these inquests. In any event, it is clear that they are contemporaneous statements from the time and full copies were obtained in relation to what Mr McCaffrey said.

[83] The significance of Mr McCaffrey's evidence, which was given in a straightforward way, was that he said that there was firing coming from Springfield Park up towards Springfield Road. In particular, reference is made to his original statement where he said:

"There was one man firing from behind a tree at the end of the field near Springfield Park. Earlier, there were about five men shooting from Springfield Park up towards Springmartin Road. About 5 minutes later

Father Mullan came from Springfield Park and seemed to stumble on the way out. I did not see him reach Bobby Clarke. At this time there were about 20 kids and several women in the field.”

[84] It is clear that Mr McCaffrey lived in the local area close by the index event at 84 Springfield Park in Belfast. In his original deposition for the 1972 inquests he described crowds of civilians throwing rocks and bottles at houses in the lower part of Springfield Park. Later in the evening he stated that a very large crowd gathered at Springmartin and the stoning increased. The target being the houses at the upper end of Springfield Park. Mr McCaffrey described that in the later evening families started boarding up houses, including his own family, and he boarded up windows at the rear of his house. He recalled seeing three men at the fence at the bottom of the garden throwing stones and bottles over the houses into Springfield Park. He then stated that he heard a shot ring out, although he could not say from which direction, but he said it sounded like a gunman. He said a youth in Springmartin who had been throwing stones staggered and fell and two youths carried the injured youth back into Springmartin. (There is a reference in the material to a 16-year-old youth from Springmartin, named Jay Vaughn, being injured at the relevant time.)

[85] Mr McCaffrey clearly described the fear that families like his own were in on this night. He said he managed to get his wife and children out of the house and as he made his way down Springfield Park with his daughter he was hit by a shotgun blast across the back of his shoulders. He managed to bring his family to the house of John and Valerie Stewart situated just off the bend of Springfield Park. Mr McCaffrey’s intention was to bring his family across the waste ground or field to a community centre at Moyard, which was considered a place of safety. Mr McCaffrey in his original deposition describes women and children running down Springfield Park in search of a safe place. He states as follows:

“At this stage shooting commenced in Springfield Park and the fire was directed towards other gunmen at Springmartin. General panic set in and people were trying to get away from Springfield Park across the waste ground into Moyard Park for safety.”

He also said:

“At that time there was serious gunfire between Springmartin and three guys who were shooting from Springfield Park. I did not know who the three guys were. I think they came over from Ballymurphy. Two of them were 19 or 20 years old and the third was middle aged. I assumed they were IRA. All three had guns. The middle aged guy had a very large revolver type weapon. The other two had smaller guns. All three were firing up the short cut towards the loyalists.”

[86] Mr McCaffrey could not identify the three men during his evidence. He said the shooting was in the direction of the crowd at the top of the short cut. Mr McCaffrey was clear about this in his evidence in terms of seeing three men. In his full statement, which was recovered for the inquest, reference is made to five men. Mr McCaffrey did not provide this information in his original deposition and in his 2019 statement to the Coroner he explained that he did not disclose to the police that he had seen IRA men given the current circumstances because he feared he would be requested to identify them. He said that due to the shooting general panic set in. People were trying to get away from Springfield Park across the field/waste ground into Moyard for safety and that was his intention.

[87] At this point Mr McCaffrey said that the Army moved on foot from Springmartin into Springfield Park and commenced to shoot at the gunmen in

Springfield Park. These gunmen were based at the lower end of Springfield Park close to Moyard. He said a large crowd of people had gathered at this point but quickly dispersed when the shooting commenced. Initially, a few gunmen emerged from the crowd at Springfield Park and the numbers seemed to increase considerably when the streets cleared. He said it was a gun battle between the Catholic crowd at Springfield Park and the Protestant crowd at Springmartin. The Army directed their fire at the Catholic crowd and at no stage did this witness notice them direct fire at the Protestant crowd of gunmen. Mr McCaffrey was questioned at length about these matters and broadly confirmed his view that there was shooting coming from the bottom of the field.

[88] In relation to the death of Father Mullan there is an original inquest deposition from Mr McCaffrey. In this he referred to seeing several people pointing towards a field in the Moyard area and that he heard gunfire from this field. He said in this deposition that he looked across towards where they were pointing and about 600 yards away he saw a man in a white shirt crouching behind three stumps, left of the centre of the field, and he heard gunfire from this position. At this point he was standing directly behind a rifle man of the 2nd Battalion Parachute Regiment and there were another three riflemen within his sight. He said all four opened fire and the one directly in front of him had his rifle aimed towards the area of the three tree stumps. Mr McCaffrey also saw Bobby Clarke in the field. He said he was first to go across the field with a young child. He got about half way across the field while coming back and Mr McCaffrey said he could see the Army firing from the road in Springmartin Park and several soldiers on the roof of Springmartin flats. There were also civilians firing from Springmartin flats.

[89] Mr McCaffrey was slightly unclear in his evidence about these soldiers on the roofs and said he honestly could not remember that, but he did remember observing soldiers along the back of houses in Springfield Park. Mr McCaffrey gave a detailed account of how he and his family crossed the field in his original inquest deposition. He described the shooting as intense when he was on the field, that there was a

considerable gun battle going on behind them and he said in his statement “I think there was shooting at least from five different points.” He said:

“I found it difficult to pinpoint, it would be fair to say that the army were shooting at gunmen in the Springfield Park area, the army engaged in a gun battle with the Catholic gunmen.”

[90] In his February 2019 statement to CSNI Mr McCaffrey also said that shortly after they got to Moyard, perhaps 10 minutes later, high velocity bullets were being fired from the top of Moyard flats. He said that he could not see who was firing, they must have been stationary on top of the flats. He said:

“Whilst I initially thought that it was the IRA, I recalled that from the velocity of the weapons that it must have been the British Army. As it began to get dark I could see that there were tracer bullets.”

[91] This is a somewhat different view from that expressed in 1999 when Mr McCaffrey was interviewed by Frank Martin. Reference was made to this in the documentary “A Million Bricks” and in particular the transcript of the documentary in which Mr McCaffrey said:

“When we got out of the field I would say probably the worst gun battle I have ever heard in all the troubles erupted because when the field was clear of people the IRA opened up from Moyard into Springmartin at the paratroopers and it just seemed to go on all night, maybe it didn’t, but it seemed to go on all night and I remember distinctly they were using tracer bullets from Moyard, every third or fourth round was a tracer so you could see

it, after the bursts of gunfire every third or fourth round was a tracer bullet, you could see it actually shooting across the Springmartin. We couldn't see the shooting coming back but we could hear it from the paratroopers."

[92] Mr McCaffrey could not actually identify who had shot Mr Bobby Clarke despite the fact that there was considerable questioning on this and also in relation to Father Mullan, whilst Mr McCaffrey was in the general area, he was unable to positively identify exactly from where and by whom Father Mullan was shot. He did say that when he saw Father Mullan enter the field he was wearing a long black robe and he appeared to have been shot in the leg and then presumably shot from another bullet. In his evidence Mr McCaffrey understandably could not be exactly sure about the sequence of all of this, largely because he said he was in a confused and frightening situation. Mr McCaffrey did not witness the shooting of Francis Quinn at all. He did refer in his evidence to a St John's Ambulance man and woman carrying a man out of the field and using a garage door as a stretcher. He could not identify the injured person as Mr Quinn, but accepted in his evidence this could have been Mr Quinn or potentially someone else who was still alive which could have been Joe Millen, who is another witness who gave evidence.

[93] In the documentary 'A Million Bricks' Mr McCaffrey also said:

"I don't know how many were killed. I think there were about six killed in and around Springfield Park that night. I know my wife's aunt was shot dead on the Springfield Road. We believe she was coming up to us actually when the paratroopers shot her dead just at the bottom of Springfield Park there, they shot her from the Henry Taggart Hall."

[94] In his 2019 statement Mr McCaffrey summarised the position as follows:

“As described earlier, we made our way through a dip in the field. I have marked our route on a black and white photograph, which has been exhibited as GMcC3. The Brits, British Army, had arrived at the Ballygomartin Road. They came the same route as used by the loyalists. The Brits started shooting at anyone who moved, it appeared indiscriminate. They were Paras, as I recall seeing red berets. After the Brits arrived, the gunfire from the IRA ceased. I was only aware of the three IRA men I have referred to. I know that Bobby Clarke had been shot prior to us entering the field. I have no doubt that it was the army who shot Bobby, they were the only ones using gunfire at that time. I seen the Brits fire at the Catholic crowd, but at no time did they fire at the loyalist crowd. We did not know if Bobby was dead or alive.”

[95] This completed Mr McCaffrey’s evidence and in fairness to him he was clear that he could not be definitive in relation to the shooting of Father Mullan or Francis Quinn, notwithstanding the general evidence that he gave in relation to activity in the field at the relevant time where he was.

[96] Mr Jackie Burns also made a deposition in the inquest of Father Mullan dated 26 October 1972 and he provided a statement to the Coroners Service dated 3 January 2019. He gave evidence before me on 26 February 2019. He said he was off work on the day in question; at that time he lived with his wife Ellen and three children at 86 Springfield Park, Belfast. Mr Burns also described a large crowd from Springmartin estate hurling stones and bottles into the rear of houses at Springfield Park from morning time, which he said went on until the early evening. He confirmed from his deposition that lorries with men drove into Springmartin.

[97] Mr Burns said that he was part of the Tenants' Committee at the time and he was very familiar with the area and the local people. His neighbour was Gerry McCaffrey. He said he went into Gerry's house to see if their house was clear and there was some interaction between the families and general pandemonium in the area. He also in common with Mr McCaffrey, who he was with at the relevant time heard the sound of a shotgun blast. He said he looked around and saw Mr McCaffrey tumbling to the ground still holding on to his son, Connor. In his statement he said he believed the gunman would have fired from a position of about number 90 Springfield Park but he did not see who fired the shot. He then referred to Bobby Clarke, who suggested that they move the children to Moyard Community Centre, and he was effectively following Bobby. He said he could not recall how he made his way to the field but he did recall that his daughter was with him in the field and he referred to some other people, namely Jim Dempsey and his wife and kids, being there also. In his statement he said:

"I recall gunfire in the area, it sounded like high powered rifles. I remember seeing a man lying down in the field, he had been shot, he was lying face down, he had been running away, facing towards Moyard, he was shot in the back."

[98] In his statement Mr Burns said that at that time he did not realise that it was Bobby Clarke. He met him the following morning and saw the gunshot wound in his back. The evidence then of this witness continued to deal with the issue of Father Mullan because he said that he recalled a priest approaching the man who was lying face down. He said that this priest had his arm raised, he was midway between a standing position to a kneeling position when he saw him go down. The witness said he assumed he had been shot as there had been gunfire at the time. He said he was about 20 yards from Father Mullan and described it as "he was on the high part, I was on the lower part." He said also in reference to his deposition that he saw a youth crawl over to Father Mullan's position but he could not really recall

this in any detail. He said he could not say who was shooting at them, however he was aware that the RUC and Army were in the Springhill area. In relation to his deposition he said that he could not recall making it and the only statement he recalled making was in the Springfield Road barracks to an RUC man. The witness on the typed account's name appears as Eugene G Arthur and he did not know who that was. He also recalled Bobby Clarke being lifted on to a door and being taken away. He understood that a young lad had been shot (presumably Francis Quinn) but he did not see how that had happened.

[99] This witness gave evidence in a straightforward manner. He could not particularly recall matters in his deposition and he pointed out that some of it was inaccurate and he could not recall the making of the typed statement which was signed by Mr Eugene G Arthur in 1971.

[100] Although Mr Burns could not remember the 1971 statement it does evidence an issue that when a problem was raised with the Army, soldiers intervened. This statement indicates that the military were dealing with matters at the interface area and tried to assist. It is also clear from the deposition that Mr Burns was in the general area with Mr McCaffrey. However, he frankly, in both his deposition and in his evidence, stated that much of what he could recount from the field came from what he heard from someone else. There were some differences in this evidence between his statements which again, I think, is understandable. Mr Burns was questioned about various matters which were not in his statement at all and tried his best to help the court with the obvious difficulties that he had in terms of remembering events after such a long period of time.

[101] Jane Molloy also gave evidence to this inquest having made a deposition at the inquest of Father Mullan in 1972. She also made a statement to the Coroner's Investigator dated 19 November 2018. She confirmed that her deposition was mainly accurate from the time although there were certain details that she could not remember. At the time of events she lived with husband, Bernard, and her two sons

and worked as a staff nurse in the Out Patients Department at the Royal Victoria Hospital. She lived at 98 Springfield Park in Belfast. This witness gave impressive evidence about events on the day in question. She said that she got up at 7am that morning and had intended to drive to work. A number of neighbours told her that she would not be able to get down the road owing to crowds of people at Mackie's Factory on the Springfield Road. She then said that she heard soldiers had marched a number of men whom they had arrested along the Springfield Road. She said there were crowds of children and young people around 8.00am throwing stones in to Springfield Park from the flats on the Springmartin Road. She thought that the stone throwing stopped around 9am and the crowds dispersed. The young people who were throwing stones were from the Protestant community.

[102] This witness did emphasise that the upper end of Springfield Park was mixed and everyone got on well together. She said that between 2.00pm and 3.00pm a crowd of men came up from the Springmartin Road and used obscene language to the residents of Springfield Park directed towards all of them. By this stage obviously Ms Molloy had not been able to get to work but she wanted to get milk and her neighbour got her young son to go over to the Shankill Road to get milk for her. She referred to this neighbour as a Mrs Harrison; she said they were Protestant people who she got on very well with. She said when Mrs Harrison's son came back he told them there had been a meeting on the Shankill, he said that a crowd had gathered at the top of the Ballygomartin Road in Springhill. By this stage Mrs Molloy described the tension in the area as extremely bad. She then referred to events later on in the day. At around 6.00pm a crowd of men and young people climbed the fences at the back of her house and ran through the gardens throwing stones and bottles at the houses. She recalled someone saying to her "you've got to get out of here." She then referred to a local lad called McCaffrey who she knew was a professional football player. She said this young man went round and found her son Bernard and brought him to safety to the bottom of Springfield Park. She said her husband and her other son had got to the bottom of Springfield Park and she

had driven down and parked somewhere around the bottom of the Park where she left her car until the following morning.

[103] Ms Molloy said the area she left her car in was in the area of Father Mullan's house. She recalled that Father Mullan's car was also on the road and they parked the car in his driveway. She said that after Father Mullan parked his car someone shouted "someone's shot in the waste land." Father Mullan took his white handkerchief out from his pocket and headed over to what was called the waste ground. Mrs Molloy marked this on a map. She said a young lad called Frank Quinn said that he would go with Father Mullan. She said she would not be sure of his age, "I think he was a teenager", and in her statement she said:

"He was very brave. I would say that the man who had been shot in the waste ground had went to try and save a little girl. The man might have been called Clarke but I cannot recall."

[104] Ms Molloy then said that there were children out but they were scattered after gunfire started. It was still daylight but approaching dusk. She said in her statement that she recalled hearing someone saying that someone had been firing from the direction of Finlay's Factory. It was definitely the Army who had been firing. In her statement to the Coroners Service Mrs Molloy also said that she recalled that she saw a soldier firing from an elevated position on the Springmartin Road and she marked that on a map. She said there was a big corrugated fence between Springfield Park and Springmartin Road. She thought the group of Protestants had removed bolts from the gate to gain access to Springfield Park. She said:

"I had a definite visual view of the soldier who was firing at us, I can still see him doing this from memory. I remember thinking why is he shooting at us."

[105] She said she believed he was firing bursts of automatic fire, he was wearing a British Army uniform and she said that the soldier was approximately 40 yards away and that her eyesight was good. She said "his shots were fired down at us from the bottom of Springfield Park." This witness said there were no shots fired from Springfield Park nor Moyard. She said she recalled a group of wee boys had collected wee bags of stones although what they were going to do with them she did not know. She said a woman called Kathleen Begley came across and took her son Paul from her and Kathleen brought her husband and her sons and herself to a flat at the bottom of Moyard. She said it was a ground floor flat and a woman called McFadden was also brought to this flat. She was looking for her husband and children. Both he and his wife were distraught as their children were still missing. She said at this stage it was still dark and Mrs Begley went out to look for the children and eventually returned with them, the two children being very frightened, as the children had been found hiding behind a galvanised bin. Mrs Begley told them that the bullets had been jumping off the lid of the bin and that it was a miracle they were okay.

[106] The witness then said there were people coming in and out of the flats throughout the night but sometime later she heard that both Father Mullan and Frank Quinn had been shot and killed. She said she believed the gunfire went on to the wee hours of the following morning. She recalled a lull around daybreak around 6.00am. She added that a man had been carried in on a stretcher after dark into the flats at Moyard. The man had been shot through the spine through his back. She recalled that she tried to get back into her home the following day, police and soldiers told her they could not stay there as their homes had been ransacked. They went through the belongings and possessions of the family. The witness ended her statement by saying "I would like to emphasise that there was no gunfire from Springfield Park. It was a good area and everyone got along."

[107] I should say that Ms Molloy gave evidence via a remote link due to some health difficulties and I permitted that her son was with her. She clearly came across to me as a very genuine and sincere witness who was trying her best to help this inquest and to give the inquest as much information as she could. She accepted that some of the matters in her statements were not from her own personal knowledge but she said that she did have some clear personal knowledge from the day in question.

[108] The next civilian witness that I heard evidence from was Mr Joseph Millen. He provided a deposition dated 26 October 1972 for the inquest of the death of Father Mullan. It appears that he may not have actually been called to give evidence but nonetheless this deposition was prepared at the time. Mr Millen was also interviewed by HET and there is a file note of this dated 26 October 2010. There was also a transcript of a YouTube video given at an event at St Mary's College around 2007 which I have considered. Finally, Mr Millen provided a statement to the Coroners Service investigators dated 26 May 2018. He came to give evidence before this inquest. On 9 August 1971 Mr Millen was aged 22. He lived at 52 Ballymurphy Road. Of course, it is important to note that this address is not in the Moyard/Springfield Park or Springmartin area. It is further away south of Springfield Road in Ballymurphy.

[109] In terms of his evidence it is clear that there has been an evolution in relation to that. The reason I say that is that the 1972 deposition was developed with certain important details by virtue of the HET investigation and then again in evidence further details have been given by the witness in relation to events. If I start with the 1972 deposition. In this Mr Millen said that he left his home at 8.45pm in the evening to go to Springfield Park to help people move out of the area because of the trouble. He subsequently amended the time to 6.45pm. He said in the deposition that he was going to go home but he could not because there was shooting going on at the Henry Taggart Hall. The Army started shooting into Springfield Park from Springmartin and he said he ran to the garages at Moyard Crescent. In this

deposition he said he could see soldiers on the rooftops in Springmartin shooting into the Moyard estate. He then said while he was behind the garages he saw a man running across the waste ground towards him. He said there were eight people behind the garages but he did not know any of the others. He then said this man fell on the waste ground.

[110] In this deposition the witness said Father Mullan arrived at the garages and that the men there told him of the man who had been shot and as a result Father Mullan went over to the man. It appears that Mr Millen was with him, because he said that when they reached the man they saw he had been shot in the back. Father Mullan anointed him; he had a white hanky in his pocket and held it in the air and started to move towards Springfield Park. He then said that Father Mullan had only gone about 10-15 yards when he heard a number of shots and saw Father Mullan fall to the ground. He said when Father Mullan fell he lay on the grass, he was lying face downwards and the next thing he had a pain in his back and realised that he had been shot. He said he lay in the field from this time which he estimates at 11.20pm until approximately 11.30pm before some people came and brought him out of the field and he was taken to hospital by ambulance. He said the shooting was still going on when he was lying in the field and he said there had been no one shooting from the Moyard estate and all the shooting was coming from Springmartin.

[111] The HET interview took place in 2010 and it is fair to say that this added to the narrative given in 1972 in some fairly significant ways. Firstly, I note in the HET file note that on the day in question Mr Millen said he was wearing blue jeans and a light blue T-shirt. It is also significant that he said he came from Ballymurphy with some other people. In his interview he did actually name the people, which he did not do in 1972. He said there was a man with him called Mr Michael Russell, who is now deceased, and a man called Charlie Tolan. I pause to observe that in his evidence he added to this and added that there was another man who was Mr Russell's brother called Tom.

[112] Another significant addition to the evidence given in 1972 is contained in the HET note which said "whilst at the flats he saw a man about 20 years with a shotgun but did not see him fire the weapon." He also saw a boy aged between 18 and 20 who had a silver coloured revolver, the boy was wearing a light coloured T-shirt but he did not see him fire the weapon. This is obviously significant information which was not provided in 1972. It was also clarified in the course of evidence by Mr Millen through some considerable questioning that in fact he said he saw these two armed people in and around the Moyard garages for a brief period but then they disappeared. In his evidence he also suggested that they were more likely 14-16 years of age and that they were carrying the weapons but the weapons were not fired and no one fired at them.

[113] In relation to Father Mullan he maintained the position that Father Mullan came over from Moyard to the injured man, which is somewhat different from other witnesses. Also in the HET note Mr Millen referred to the issue of the man who was lying beside him in the field whenever he was shot. He said this in the HET note. Mr Millen started to crawl on his stomach away from Mr Clarke. He was lying flat facing in the general direction of Springfield Park when he heard a shot and he was hit in the back with a bullet. There was a young man at the side of him who was very close up to him but a bit further back. Mr Millen told the lad that he had been shot and asked for help. The lad did not reply and a short time later Mr Millen realised that the boy was dead. Mr Millen said that the bullet that had struck him had entered his right side just below his right shoulder blade, passed through his right lung and exited the left side of his back. He was sure that as the lad was so close to him the same bullet had then hit the boy. He was of this opinion due to the fact that he had been so close to Mr Millen that it would have been very difficult for anyone to shoot the boy without hitting Mr Millen first.

[114] It was explained to Mr Millen that if this boy was Francis Quinn then the bullet that killed him entered the back of his head and lodged in his right cheek.

Therefore, if he was in the same position as Mr Millen it could not have been the same bullet that shot them both unless Francis had turned his head and looked back at the time the shot hit them. Mr Millen said that was possible, if he had been looking back that would have been towards where Mr Clarke lay injured. At that time they were about five yards away from Mr Clarke. In relation to the HET evidence Mr Millen also confirmed that he sued the Army for his injuries and received £2,000 compensation. That was clarified in evidence, although the figure was revised to £2,250 and I received a medical report in relation to his injuries.

[115] In his 1972 deposition Mr Millen stated that the Army started shooting into Springfield Park from Springmartin. In his oral evidence Mr Millen confirmed that, contrary to his deposition, he did not see the Army or any soldiers shoot into Springfield Park from Springmartin although it is fair to say he assumed this was the Army. It is clear that his case is that because of the shooting he and his friends ran and hid at garages at Moyard Crescent. Now Mr Millen in his evidence referred to seeing gunmen in that general area although he effectively said they were children. In his evidence Mr Millen clarified that the cover was sought by him and his friends behind 82 Moyard Park and as I have said he named persons who were present. In terms of shooting whenever he was hiding behind the garages it is clear, and he clarified in his evidence, that he saw a man running over the waste ground towards him and others. He clarified that this was likely to be Bobby Clarke who he knew was a local butcher at the time. In his deposition he stated that he could see soldiers on the rooftops in Springmartin shooting into the Moyard estate.

[116] In his original deposition Mr Millen did not identify Bobby Clarke but he said he now knows that this was the man in question. He was not specifically able to identify who had shot Bobby Clarke, Father Mullan, Francis Quinn or himself or the location from where the shots were fired. He did maintain however that he saw soldiers on the rooftops in Springmartin shooting into the Moyard estate in terms of pointing rifles not actually shooting. He was clear that there was a soldier on the rooftop beside a chimney and he was aiming his rifle on top of the chimney and the

tenor of his evidence was that he assumed the shooting on all accounts came from the Army. In relation specifically to the death of Father Mullan, as I have said, he believes that Father Mullan came from Moyard into the field and that he was shot three times as he heard three separate squeals from Father Mullan, but he could not actually see who had shot him as he himself said his head was buried in the ground as he had fallen to the ground whenever the shooting began. He had no knowledge of who the boy beside him was although there is a possibility that this may have been Francis Quinn.

[117] There is a handwritten diagram attached to the statement which Mr Millen prepared in relation to the person lying beside him. This was examined in evidence. It was clear from his evidence that Mr Millen could not be exactly certain of the positioning. In particular he could not be certain that the persons were facing in the same direction or that the injuries were as stated. Also, Mr Millen maintained that he could not remember any firing from Moyard estate although he had referred to the two men in the area. Overall, Mr Millen was quite clear that this was a frightening time, and as he said in his evidence, the situation was that chaotic that he was not sure who was on the waste ground. Mr Millen also identifies a man in the field with an English accent, which is in common with other witnesses.

[118] The next witness I heard from who also was injured in the field by way of an injury to his toe was a Mr Sean Daly. He provided a deposition although he was not called to the inquest of Father Mullan. That deposition is for 26 October 1972. He also provided a statement to the Coroner's Investigator dated 20 February 2019 and he gave evidence to this inquest on 26 February 2019.

[119] I pause at the outset to say that I have noted that Mr Daly gave evidence in a very straightforward manner, which impressed me. I should also say that he was quite clear in common with some other witnesses that he did not have an opportunity to sign his original deposition in 1972. He said it was not a particularly fulsome statement and he "did it with a heavy heart" in that it was dragged out of

him. He said he attended the inquest but he was not called and that was really all he could say about what he said was a very difficult time. At the time he was 22, he lived in Whitecliff Crescent, which is south of Springfield Park, so he knew the area well. He was never out of the mountains he said because he was racing dogs and he talked about going to Dunmore Greyhound Track. It is clear from his evidence that he was not directly involved in attending the scene with other people. He effectively went himself to see what was happening.

[120] Mr Daly gave evidence on the basis of a deposition he made to the inquest of Father Mullan dated 26 August 1972. He also made a statement to Thomas Glynn at the time of the events or near to the time of 21 August 1971 and he referred to his statement to the Coroners Service dated 20 February 2019. At the outset I should say that Mr Daly is often referred to as 'Loaf' Daly in the evidence.

[121] I start from the 1971 evidence given to Thomas Glynn. In this, Mr Daly said that around about 9.00pm on the night in question he was behind the flats in Moyard Park. He said clearly in this statement there was shooting from Springmartin flats at this time towards the flats and towards the waste ground in front of them. He said he saw a man come over with a child from the back of Springfield Park. As he made his way back again he was shot in the back. He shouted "are you hit" and he raised his arm. He said a man with an English accent and he ran out and lay down beside the man. He said shortly afterwards Father Mullan arrived and the wounded man said "I'm in no need of that yet." Father Mullan asked him if he would be embarrassed if an ambulance came and took him to the hospital and he said "Yes." All this time he lay about two yards from the wounded man the witness said. He then said he took off his T-shirt and gave it to a man called Russell. He said he was lying on his back at the time. The priest got up and moved away towards Moyard flats, a couple of shots rang out and he screamed and fell. Then the witness said he got hit in the toe and rolled away through the grass.

[122] The witness also said that Father Mullan was about 10 yards away when he was shot. He revised this in his evidence to about five yards. He said that there was continuous fire which seemed to come from Springmartin flats. After more than half an hour he said he made his way to the railings of a factory which adjoins the waste ground and a first aid man got him out. At about 8.30pm there was some gunfire from the Moyard side towards Springmartin flats.

[123] This original statement coincides with the deposition that was given in 1972. It is fair to say that the statement given to the Coroners Service is somewhat more detailed. In terms of why Mr Daly was there at the time he said he walked up towards Springfield Park because he was curious as word on the street was that people were being put out of their houses. He said he stayed as far away from the Henry Taggart Hall as possible because he knew soldiers were based there, so he came up the Whiterock Road through New Barnsley into Moyard Park. He said he was alone, carried nothing and wore a pair of jeans and white T-shirt. He then described seeing Bobby Clarke and also he described seeing a man who had an English accent, given that he was married to one of the neighbours in the vicinity. The only other person he recognised was Micky Russell who is now deceased. He then described going to assist Bobby Clarke and, in particular, he also goes on to describe his recollection of Father Mullan in the field. Actually, he said that he took off his white T-shirt and handed it to Micky Russell intending it to be handed to the priest and he ended up bare chested at the end of the evening.

[124] In terms of the positioning of the priest he said that he was trying to exit the field towards Moyard but had come in from a different direction and he said he saw the priest fall during a burst of gunfire. He cannot say much more about that except that he thinks there were two bursts of gunfire and he was hit in the toe during the second burst of gunfire.

[125] In his original statements this witness did not identify who fired the shots or the position from where the shots were fired in relation to Father Mullan. He,

however, in his evidence stated that he thought the shooting was coming from Springmartin. He also reiterated that he was aware of gunfire from the Moyard side towards Springmartin flats. He said that there was fire from the flats, however he was confident enough to go into the waste ground to provide assistance to Mr Clarke. He in his evidence accepted that he did not see the person who discharged the shot which struck Mr Clarke or from where the shot was discharged. According to Mr Daly he did witness Father Mullan being struck by a bullet although he could not identify who discharged these shots. However, it is quite clear that he in his evidence when pressed about this in some detail said that they came from Springmartin.

[126] Mr Brian McLaughlin also gave oral evidence to the inquest. He was a keyholder at Moyard Community Centre. During his evidence Mr McLaughlin said that he opened the centre on 9 August 1971 to provide people with somewhere to go. He said that he heard that a priest had been shot in the field and he went into the field with others, wearing a white medical helmet. He said he lifted Father Mullan's body and helped move him. Mr McLaughlin also said that he saw one civilian with a revolver in the Moyard estate and he provided the inquest with a number of photographs.

[127] The next civilian witness who gave evidence was afforded anonymity and is known as C4 throughout this inquest. He provided a deposition to the inquest of Father Mullan which is available. He also provided a statement to Thomas Glynn/Eugene G Arthur of 21 August 1971. It appears that this witness clearly did give evidence at the inquest as there are handwritten additions to the deposition which come from the evidence. He was interviewed by HET and there is a note of this meeting of 11 June 2009. There is a further meeting noted with Laura McMahan, Barrister, which took place on 19 August 2009. The witness also made a statement for the Coroners Service dated 21 May 2018. He was interviewed for a production by Frank Martin, journalist, called 'Three days in August' which is dated 2012. There is another file note from the HET in relation to an interview dated

12 November 2010. Overall, there was a considerable body of written evidence available from this witness and he also gave oral evidence to the inquest.

[128] C4 gave evidence over two days on 2 and 3 April 2019. C4 does have an English accent. He is an Englishman who had previously served in the British Army. He also had been grazed by a bullet on the day in question. He had married a local and lived in the local area. I also note specifically in the MoD submissions that the point is made that the evidence of this witness is unreliable. The MoD make the point that his version of events has changed in many significant respects over the years and the reasons put forward by way of explanation lack any credibility, so they ask me not to place any weight at all upon this evidence. It is clear also that C4 whilst giving evidence felt conflicted throughout from 1971 even to date because of his loyalty to the Army. The next of kin rely on his evidence in contrast to the MoD. He was actually Northern Irish however everyone considered him a "Brit" given his Army associations and most people knew him in Ballymurphy.

[129] It is instructive to look at the original statement that was made by this witness which is dated 21 August 1971, as it is close in time to events. In this the witness said that on the day in question stones were being thrown throughout the day from the Springmartin flats into Springfield Park during which there were many civilians on the street in Springfield Park and neighbouring Moyard Park. He said that at about 8.30pm shooting broke out from the Springmartin flats (this seemed to have been civilian fire) and the streets were cleared almost immediately. He described women and children fleeing, sometimes across the waste ground. He said that at about 8.45pm he saw a Ferret scout car come up Springfield Park accompanied by troops on foot. The civilian fire had stopped three to four minutes previously. A short time later which he thought was about 5 minutes Robert Clarke, whom he knew who lived at 60 Springfield Park, carried a baby across to Moyard Park from Springfield Park. He then described what happened to Robert Clarke: and he said he was shot in the lower back and fell to the ground. He said he lifted his arm to say

that he was alive and at this stage a number of people ran across to help, including himself.

[130] The witness then said they got as far as the injured man where they were pinned down by shots from Springmartin flats. These shots were fired by two soldiers with SLRs on the roof of Springmartin flats. There is reference here to a map, which was not made available to me, but in any event the witness continued, there was a shout for medics which brought Father Mullan, who lived in Springfield Park, across from his house. The witness described Father Mullan in that he said he half walked and half trotted across towards the injured man, waving a white handkerchief. The witness then said he was told to get down and Father Mullan administered the last rites to Mr Clarke lying beside him. Then Father Mullan asked Mr Clarke if he had any reason to fear going to hospital. Mr Clarke according to this witness said he had not been rioting and had not had a gun and so had no objection. Father Mullan then said he would get a nurse and he began to crawl backwards, lying on his stomach and with his feet pointing towards Moyard.

[131] The witness said that about 13 yards from where the first man was shot in the back, Father Mullan screamed. He said that he and the other injured men were about 12 yards away from Father Mullan at this time. He said he was facing towards Moyard Park and he looked towards Springmartin and saw smoke from the guns of the soldiers on the roof of the Springmartin flats. He said he kept looking towards the soldiers and about 15 to 20 seconds later, he stopped screaming as he saw a gun flash from the soldier's gun and heard a bullet's impact. He said he was not sure if the same soldier fired twice but he saw the flame and smoke from the soldier's gun and heard the smack of the bullet. He said Father Mullan stopped screaming at the same instant. He then said Father Mullan started to pray in English and Latin for about 10 minutes and then he stopped.

[132] He said that during those 10 minutes shots were still coming in very fast especially when anybody moved. About two minutes after Father Mullan was shot

a bullet nicked his leg and almost immediately Frank Quinn who lay on the other side of the injured man from him screamed "I'm hit, I'm hit." The witness said he asked him if it was bad and he did not reply so he presumed him dead. He then continued to talk to Mr Clarke and he said shots continued at 10-15 second intervals. He said he was not seriously injured but he knew another man was shot in the toe. He said he did not move until the first aid people arrived but others including Mr Clarke crawled to safer parts of the waste ground. He said there was a blonde-haired witness about one yard from Father Mullan as he lay dying and a boy in the vicinity aged 8-9 years. He said at a point shortly after 8.45pm it was daylight, he said in this deposition "I feel that the soldiers knew he was a priest because of his dress and his actions." He said visibility and range of about 200 yards were adequate for identification. He said the shots were still coming from the soldiers on the roof, and after about half an hour two .303s began firing from waste ground behind Finlay's Factory.

[133] C4 said he could distinguish between the deep sound of a .303 and the sharp crack of an SLR. He said this was the first civilian fire since the soldiers had been seen to arrive in Springmartin. He said at dusk, around half to three quarters of an hour later, two first aid men approached and the shooting eased off. He said one went straight to Father Mullan and said he was dead. The other first aid man asked whether anyone here was not hurt and could walk. He said he responded to this and pretended he was wounded and they would pretend to assist him. He said as he passed Father Mullan's body the man lying beside him got up and pretended to help him also. At this stage the young child who was about six yards from Frank Quinn got up and ran. The witness said that as he started to run the Army opened up again. He said the child was not hurt but he believes the first aid man was hit.

[134] As I have said, the witness provided a deposition for the original inquest of Father Mullan and clearly he gave evidence in relation to this explaining the detail

given on the deposition which has been transcribed as accurately as possible given the handwriting, as follows:

“Mr Hutton (Counsel): The army and gunmen had been exchanging shots between Springmartin and Springfield Park, but at this time Father Mullan was shot. Around 7pm there I was ... 43 Moyard Park and I went to the corner and watched the rioting. Then I saw this ... an ambulance come round about the waste grounds. I would ... this ground fire streamed ... Mr Clarke came and left ... can't. Hit Ennis ... remains striking the ground in the vicinity. At that time there was no gunfire from 80 and 82 Moyard Park - I decided to wait till I saw no gunman there. There was firing from Springmartin and Henry Taggart Hall. I did not hear any firing from 17 and 21 Moyard Park. People firing from Finlay's walls contact ... the ground around us and over our heads ... past it. Ambulance got in the way, reflection was the firing in Finlays and ... was leaving and she was then shot ... I was scared but not confused.

Mr Cahill (Counsel): I come from Gloucestershire, I came on early draft ... last. At the time Father Mullan was shot there was no firing from the Moyard area.”

[135] In his statement to the Coroners Service the witness said he did not actually recall making this statement in August 1971 but he did not refute that it was made by him. In this statement he said that the shooting that broke out at Springmartin flats was not from civilians it was from the military. He said the only civilian shot he heard was from Loyalist rioters in the Springmartin side, it was a single shot from a pistol around 6.00pm. He said in this statement that he did not see the Ferret scout

car referred to or any soldiers other than the three on the roof. He said one of them was a non-commissioned officer who had three stripes, the others were privates and did not have any stripes. He said the white handkerchief referred to being held by Father Mullan was much bigger, he would say it was a white tea towel, and he said he was the person who told Father Mullan to get down. He said there was one sketch associated with the statement made by him and labelled "C4" 21 May 18 and signed by him. I have seen this sketch which is available.

[136] C4 then referred to various other matters. He said he was wearing civilian clothing at the time, he said that there were two Saracens parked on the Springmartin Road at the entrance to the factory. When the witness spoke to HET on 11 June 2009 he made a number of other points. He said there was pistol fire from the Springmartin estate into Springmartin Park which he thought was probably from the UDA. He said Father Mullan was holding a white sheet above his head and that he had come to give the last rites to Bobby Clarke. He said Father Mullan was killed on his way to Bobby Clarke. He said 10 or 12 shots were fired at Father Mullan and he was hit three times. He said he believed that soldiers at Henry Taggart Hall had given Father Mullan permission to go into the waste ground and they had supplied him with a sheet to hold up. He said Francis Quinn did not make a sound when he was shot. Further, he made some comment that the police in his view was a paramilitary force working for Protestants. He also in this document appeared to say that back then the IRA did not exist as an organisation. He also said soldiers in red berets were on the roof of the flats and were shooting at people on the waste ground and no guns were fired from Finlay's Factory. In the second meeting with HET on 12 November 2010 the witness stated that he did not know Francis Quinn and could not explain how he knew it was Francis Quinn who had been shot.

[137] As I have previously said, this witness C4 was questioned at length about various matters. He in his evidence accepted that shots were fired from Springmartin and he identified six maybe seven shots. He said that there were

maybe two guns at most in relation to this, but effectively he said he could not see anybody with guns there at the time. He had referred to machine gun fire coming from Finlay's Factory but he was not quite clear about the location of this and he certainly was clear that he did not see any IRA men with guns in the area. He denied seeing any gunmen by the Moyard flats and the garages and he certainly did not hear any gunfire from that area. In relation to the direction of persons entering the field the evidence was somewhat unclear and varying. Firstly, he relied on his diagram in relation to Mr Clarke and that he came over from Moyard towards Mr Clarke. In his interviews with Laura McMahon and Frank Martin he said he had come from Springfield Park. So in relation to his original statement the witness said that most parts of it are the truth "there are just little bits that are not."

[138] In relation to his evidence some inconsistencies were pointed out to him which he answered as best he could. He also stated that he was a serving soldier when he made the first statement and therefore he was under orders from above. In his evidence he said that at that particular time things were being hushed up left, right and centre. However, he did maintain that his original statement was by and large correct. He accepted he gave a number of accounts of what Father Mullan was actually carrying, however he was consistent that it was a white object; whether or not it was a handkerchief, a tea towel or a sheet, he could not actually say. He was adamant about who was actually in the field with him including the small child who he said ran away. In terms of the position of soldiers on Springmartin flats, C4 accepted that he was lying on the ground but he said that he could see the position of the soldiers and he did accept in his evidence that he heard screams from Father Mullan and also that he observed soldiers and smoke coming from what he assumed to be their rifles. He could not say whether that was actually from the rifle that shot Father Mullan.

[139] In his evidence he also made some points about what happened at the inquest which were unsubstantiated by any other objective evidence. He effectively alleged that he was told at the original inquest that the Army opened up on the orders of the

RUC. Under examination he accepted this was only a presumption but he also alleged that a captain called him a traitor and threatened to kill him. He said that the paras came to his house and assaulted him in his home as a result of which there were Courts Martial held. As I have said, upon being asked about this, the witness could not give details of the outcome of the court martial or give any evidence about it at all and frankly, I can say at this stage, that that evidence cannot stand up to any forensic scrutiny whatsoever. However, that does not mean that other parts of this evidence are not relevant. As I have said, just because one part of the evidence is unreliable does not mean that I totally disregard all of the evidence of this witness and in relation to his recounting of what happened in the waste ground he is clearly mentioned by other witnesses and I will take this into account when I assess the evidence as a whole.

ii. Other civilian witnesses in the area

[140] There is an additional category of civilian witnesses who were not injured but who were in the general vicinity at the time and who gave evidence to me. I intend to now deal with some of these witnesses, the first being Francis Corr.

[141] Mr Corr gave evidence to this inquest on 11 February 2019. He made a statement to the Coroner's Investigator dated 24 May 2018. As he said in that statement he had made a previous statement in relation to both the deaths of Father Mullan and Francis Quinn on 9 August 1971. Mr Corr also commented on the death of Mr McKerr, which is a separate incident I am dealing with, the said death occurring on 10 August 1971. The statement that he made in relation to these matters is dated 8 December 2012 and it was made at that time to a solicitor, Desmond J Doherty. In addition to the statement he made to the Coroners Service he also said that he has further information in relation to his meeting Joan Connolly on 9 August 1971. He said he was making his way up to Springfield Park to make sure his friend Paddy Joe was alright. He said he was alone at this time which was approximately after 6.00pm.

[142] Mr Corr said that he met Mrs Connolly at the bottom of the steps at Divismore Park which led directly up to the Springfield Road outside Springfield Park. He said he recalls Mrs Connolly was wearing a dark long coat and was not sure whether she had a head scarf. She asked him whether he had seen any of her children who would have often frequented his home. He had not and told her so. He carried on to Springfield Park going across the green to avoid the steps, she continued on her way. There was rioting ongoing at the Henry Taggart Hall. The witness said there was no shooting at the time. He said he was not aware of times but made his way home when it was dark going from Springfield Park through the back streets of Moyard via the Whiterock and New Barnsley into Ballymurphy. He named a man, Sammy McMaugh, who guided him and said there were just the two of them.

[143] A further statement was located for Mr Corr dated 5 November 2010. This statement was shown to him and in a second statement to the Coroner's Investigator dated 6 December 2018 he referred to it. He said he recalled giving five statements in total. He said the first statement he made was in the Frank Cahill Centre at the top of the Whiterock Road in the 1980s. The second statement was given at the Sinn Fein Office on the Falls Road and the third statement was at a building called the Corn Exchange in Gordon Street, Belfast, which he thinks may have been organised by the families. The final two statements were recorded by the Coroners Service.

[144] It is clear from this train of written evidence that this witness, Mr Corr, did not make an inquest statement or deposition in 1971 or 1972 and so there is no contemporaneous record of events. There is no statement from the Frank Cahill Centre in the 1980s. There is a record of the statement made to the Sinn Fein offices on 5 November 2010 and to the solicitor Mr Doherty on 8 December 2012. There are some differences in these statements which were highlighted in evidence. In the first statement dated 5 November 2010 Mr Corr said that when he was in Springfield Park he heard shooting which he assumed came from Springmartin but he could not

be 100 % sure. He ran towards Moyard into the cover of the Moyard flats and from there he noticed a man in a field coming towards him who suddenly dropped. He assumed that he had been shot. To his right he noticed a man walking out holding a hanky up in his hand. He said he did not realise he was a priest. He said he vaguely remembered another person behind him holding a first aid box with a red cross on it.

[145] In his evidence Mr Corr clarified that he thought the man was Robert Clarke, however Mr Corr's evidence places Robert Clarke coming in a different direction. Mr Corr could not say how Mr Clarke had been shot. He also referred to seeing Father Mullan with a white hanky in his hand which is replicated in other evidence. However, he gave evidence of a man with a Red Cross box following Father Mullan which is not part and parcel of other civilian evidence that I have heard.

[146] Mr Corr had a bit more to say in relation to Francis Quinn because he said he knew him and he said that Francis Quinn followed him onto the waste ground and he also referred to 'Loaf' Daly being there. He referred to gunfire which he thought had been coming from the right- hand side of Henry Taggart Hall. This does not correspond entirely with his statement in 2012 when he thought the shooting was coming from the Springmartin estate. In terms of what else Mr Corr could say he did not say that he saw any soldiers in the Springmartin flats or that he heard weapons. He did say in his 2012 statement that he noticed soldiers on an outside stairwell of one of the flats in Springmartin and two other persons on the roof of another building in Springmartin but he was not sure actually who those soldiers were. He said that he thought there was a gunman in Springmartin flats but he did not identify this as a soldier.

[147] In relation to Francis Quinn, this witness did give evidence about his connection with him. He also said that Mr Quinn got up and began running to the old printing place which he mentioned in his evidence. He said he saw Mr Quinn collapse following a gunshot close to a fence at the old printing place. This is

evidence which only Mr Corr gave and he was not able to give exact details about it or about the circumstances of Mr Quinn on that day. In terms of sequencing, Mr Corr said that 'Loaf' Daly was the first person to be shot, then Francis Quinn and then Father Mullan. He said that Father Mullan was on the ground when he was shot. The witness did not identify who exactly shot at each person but he gave this broad description of events.

[148] I note that during his evidence Mr Corr did become emotional and said that for a long time he felt responsible because if Frankie had not talked to him he may not have been killed.

[149] Eilish Meehan also gave evidence to this inquest on 25 February 2019 about her recall of events. The evidence from Ms Meehan is comprised in a statement she made for the Coroner's Investigator of 24 September 2018. She had also been interviewed on 13 April 1999 by Mr Paul Mahon and a transcript of that was available. Ms Meehan was a young girl at the time aged about 19. She did not live in Springfield Park, rather she lived in Springfield Crescent which is across the road, but her aunt lived in Springfield Park and was said to be at the bottom of the 'U' of Springfield Park.

[150] This lady gave very straightforward evidence, but fundamentally she could not assist in relation to exactly what had happened to the two deceased in the field. Much of the other evidence was put to her which, I consider, confusing at times but fundamentally the lady, as I have said, did her best to assist the court by describing events on the day when she said she thought there was both Loyalist and security force shooting. She also described a first aider going into the field, a man who she described as of Pakistani origin called Ali, who was trying to retrieve bodies from the field. She described a general scene of chaos and panic which she wanted to remove herself from because she was up at her aunt's house and she could see women and children crying and frightened in Springfield Park. She thought there was gunfire coming from Springmartin and she gave evidence that generally there

were people running towards Moyard across the field. She said she saw people on the roof of Springmartin lying flat but she did not actually see any gunfire and she did not know how many were on the roof. She said she did see some man who was injured in the field.

[151] Ms Meehan was clearly in the field and she did give some evidence about the intensity of the gunfire. She said she had crossed the waste ground trying to take children to safety in Moyard and when doing so, felt gunfire bouncing around her ankles. It was her view that anybody in that field was being shot at:

“I don’t know whether they were aiming at me or not, I wasn’t looking round for that, but I do remember the bullets were – they were bouncing off the grass.”

[152] When Ms Meehan got to the area of the Moyard flats at No. 80 she described the gunfire as being in crossfire. She said that the people there including women and children had to stay down because of the intensity of the gunfire and they did not move. She really only heard about the priest being shot and she could hear moaning from the waste ground. At that time Ms Meehan was aware of gunfire coming from both Springmartin and the Henry Taggart she said, and in her Mahon interview she explained:

“There is a gap between the end of the flats and Moyard Crescent and the start of the flats in Moyard Park, and that is what they were firing through. They had a line of fire from the back of the Taggart, straight the way through.”

[153] Stephen Pittam also gave evidence to me on 28 February 2019. He is in a slightly different position from other civilian witnesses in that he was a young student at the time who was in Northern Ireland rather than someone who lived in

the local area. He provided his own perspective of events at the time in a number of documents and he gave oral evidence to me. The evidence in written form was comprised in a statement of 19 October 2018 given to the Coroners Service. The witness also referred to an article he wrote at the time on 20 August 1971, which was published in 'Peace News' and which he said he wrote in the immediate aftermath of the introduction of internment.

[154] In his statement Mr Pittam explained how he was in the Moyard and New Barnsley area at the particular time. He said he was a 21- year- old student at Nottingham University having just completed two years of a three year BA course in Applied Social Science. It was a condition of the course that students undertook a placement during the summer vacation and he had a particular interest in the conflict in Northern Ireland. That led him to negotiating a placement as a medium term volunteer with the Voluntary Service Bureau (VSB), Belfast which in 1971 was organising summer play schemes throughout Belfast. He said he was placed by VSB in Moyard and New Barnsley and asked to help run a work camp organised by the United Nations Association for International Service (UNAIS). This was a three week summer work camp that he helped organise. He said he arrived in Moyard and New Barnsley in mid-June 1971, three weeks before the work camp was due to commence and stayed for at least six weeks after it finished. He said the work camp was over by the events of 9 August 1971.

[155] In his evidence he talked about the fact that the work was directed at intra-community relationships and in particular there was a hope that the new Moyard Community Centre would attract residents from New Barnsley and vice versa for the adventure playground planned for New Barnsley. In other words, there would be a cross-community element going forward. He said that during the summer he lodged with a resident in New Barnsley Grove. The work camp students lived in an empty maisonette on the upper deck of the block at the top of Moyard Parade. He said the students' maisonette was the highest point in the estate and offered an unparalleled view over Moyard, the army barracks at the Henry Taggart

Hall, and beyond to Springhill, and across the valley to Springmartin and over Belfast City.

[156] Mr Pittam then gave evidence about his recollection of the events of 9 August 1971. He drew on his article that he wrote at the time. He said that he was awoken that day by the commotion of the banging of bin lids at about 4.30am. He said he got up to see what was going on but went back to bed and got up again around 8.00am. He said on going outside:

“I began to understand the scale of anger in the community and of its response to internment. The barricade across the road at the junction of Springfield Road and Whiterock Road was built with a scaffolding and timber so carefully gathered for the adventure playground. At the top of the Whiterock I saw a bread van being emptied and a shop looted. There were barricades at various points on the Springfield Road.”

[157] He said he walked down New Barnsley Grove to the students’ flat in Moyard. He said a few work camp participants were still staying there, including Ali Khilleh who he said was a Palestinian refugee living in Denmark. He said walking through the streets there was an intense sense of expectation and there was a deep sense of anger and unrest. He said the teenagers with whom we had developed such constructive relationships during the summer proudly showed us the crates of milk bottles filled with petrol, ready to be lit and thrown at the Army. He said there were disturbances throughout the day. He said he recalled attending a meeting at the Moyard Community Centre to elect a Street Defence Committee in the afternoon. The committee was voted in by the community to organise the community. He said all sorts of rumours were circulating, including that Protestants from Springmartin were planning to invade Springfield Park. Mr Pittam then said that he was able to watch events unfold from the students’ flat. He said he could see a large crowd

gathering in Springmartin who said people in Moyard feared that they were going to be attacked. There were two levels of concern, the Army and the Protestants coming from Springmartin.

[158] Mr Pittam sets out an account of how events unfolded in his article, which was considered in evidence. In relation to that, he said Ali Khilleh and himself went out to assist the injured man. Darkness was falling, they left the Moyard Community Centre wearing Red Cross armbands. They moved carefully along the lower side of Moyard Crescent in the direction of Moyard Park. They were sheltered by the blocks of maisonettes to their right until they arrived at the end of the second block and were about to turn down the hill to the steps leading to Moyard Park. He said that it was there they came under a sustained attack of gunfire and could hear bullets ricocheting off the road around them. Ali had a better awareness of what was happening than him he said and he was grateful to have his advice. He said they dropped to the ground, lay still for a while before slowly crawling back to the safety of the cover of a brick wall on one side of the maisonettes. He said their movement attracted more gunfire and they returned to the Community Centre. They said that later others had found a way to get the injured man to Moyard Parade. The second time they went out was to carry him from a house in Moyard Parade to the top of the Whiterock Road. They said later they heard that the man had survived. They had no record of his name but they think he had a leg wound.

[159] In evidence, Mr Pittam said this:

“I never saw any gunmen, either from the British Army or the IRA, or the UVF. My sense though, was that there was a gun battle going on and it lasted a considerable time.”

[160] Mr Pittam said "I was also physically assaulted by soldiers the next day." He said such assaults were a fairly regular occurrence and on some occasions he was told by soldiers that he was a traitor living with the enemy. On other occasions he felt that the treatment he received was moderated by a knowledge that he had some connections. He said this:

"Some soldiers expressed views to me indicating that they felt uncomfortable with the role they were having to play. Others seemed to relish the opportunity to physically abuse people. Many men living in New Barnsley and Moyard suffered much worse than me."

[161] Mr Pittam poignantly concluded his statement as follows:

"The deaths had a huge impact on the community. It had been possible to undertake constructive community development work in Moyard and New Barnsley earlier in the summer. Internment, and in particular the behaviour of the Parachute Regiment, destroyed the positive sense of community action that had been building in the area. It left the community feeling disgruntled, alienated and angry. It polarised the mistrust and suspicion between the nationalist and loyalist communities. It led to the whole nationalist community uniting in support of anyone who might resist what was seen as an occupying force and to a growth of the IRA. It set everything back by years. It is hard to think of that night as anything other than a total disaster."

[162] Mr Pittam gave evidence in a very helpful and straightforward way. He obviously came from the perspective of being a young student and it was clear that these events have deeply affected him and are etched on his mind. In particular, he recounted the treatment in the community that he received. He was clear about his role along with Mr Khilleh in the field in terms of assisting injured. Other than that, he could not give specific evidence about what actually was happening but he did say that there was effectively a considerable amount of gunfire in the area. In terms of where the gunfire was coming from he could only speculate it was coming from the Henry Taggart Hall and also he said in his evidence that people were shooting from Springmartin.

[163] One other witness who came to the inquest relatively late in the day was Mr Philip Russell, who gave evidence via video link from Canada on 16 October 2019. He provided a statement to the Coroners Service dated 17 October 2019. Mr Russell is the brother of Robert Russell and Gerard Russell and the cousin of Michael Russell all of whom have featured in this inquest. In his statement Mr Russell indicated that he came to give evidence to the inquest by virtue of making contact with Mr O'Muirigh, Solicitor, by email of 30 August 2019. This followed contact from his niece who informed him that his brother Gerard Russell had died. He then decided that he should give his recollection of events. He had moved to Canada in October 1977. He said that in the early hours of 9 August 1971 at approximately 4.00-4.30 am he and his younger brother Robert went to bed, he was 14 and his brother Robert was 13 and Gerard was 24. They resided at 37 Springhill Crescent with his parents and younger sister. He referenced hearing the sound of a woman scream at this time of the night and also the sound of soldiers on foot. He made some comment about seeing people on the streets in the Springfield Road area in front of the Henry Taggart Hall and he alleged that the British Army Parachute Regiment had dragged men off to torture centres.

[164] The witness gave evidence about what he perceived to be tensions on the street at the time. He said that there was a great deal of anger about internment and

before too long people were throwing rocks and bottles at the Henry Taggart Hall. He also described that throughout the day British mobs were gathering in the British Springmartin housing estate. He said the British Army gunmen were on rooftops which overlooked Ballymurphy and were directly above Springfield Park and separated only by an open field. He actually placed these gunmen on the rooftops of 24-28 Blackmountain Grove in the course of his evidence. However, I have already said that some latitude is given to difficulties with marking maps and having exact locations.

[165] He did say that then around 8.30 in the evening the mob in Springmartin started running across the field towards Springfield Park and began attacking the houses and he said a number of people including himself went up to help the people there. He said he was there assisting people being evacuated. He then said he could see the field in which Father Mullan and Frank Quinn died and he said:

“The snipers on the rooftops in Springmartin fired into the flats, and bullets passed through the building and out the other side ... The soldiers in the Henry Taggart thought they were being fired on from the flats and returned fire, and in turn the snipers now thought they were being fired on from the flats and returned fire. This went on for some time.”

[166] It became clear during this evidence, despite being asked to look at various photographs and maps that Mr Russell could not be definitive about where the bullets were actually coming from. There is a suggestion that he referred to crossfire as well, but again that seemed to be speculation on his part and indeed he also in the course of his evidence suggested that 30,000 bullets were fired into his community that night. He then said that at the steps near the Moyard flats, adjacent to the waste ground, there was a person standing next to him and as they started to walk the person next to him dropped to the ground shot. The witness said he did not know

him, did not know if he survived, but he thought he had been hit on the leg. He then described that he jumped behind a low wall and the male he was with either fell or dragged himself up to the other side of the step. He said that in this position there was a woman and two small children but he did not know exactly who they were. He said the snipers were trying to kill him, all of them, by ricocheting bullets off the wall behind them.

[167] He continued to describe the gunfire as heavy and sustained. He also referred to a Red Cross couple and asked why they could not go into the field and get the injured out. He said that this couple of people said to him that they had changed their opinion of soldiers forever: "they are scum of the earth" and "we can't move, the snipers are using the Red Cross on our hat as a target to shoot us." The evidence continued in this vein in relation to the shooting in the field. The witness then said he went to the community centre and two of his friends were there, Liam and Seany. He said the next morning he made his way back home and climbed through the window and went to bed.

[168] Mr Russell concluded his evidence by recounting a rather bizarre story whereby he alleged that he had an encounter on the ferry from Belfast to Liverpool in November 1973 when he sat at a table and was joined by a member of the Royal Navy and a soldier, allegedly a paratrooper. He said that the man wore an SLR bullet on a necklace and that this person allegedly told him a story that he saw a riot going on in front of the Henry Taggart Hall and a priest in an open field in full view with an M1 carbine rifle firing at the Henry Taggart. The man said the priest then turned and fired towards Springmartin with his M16 rifle at which point the man said that he "shot the IRA bastard." The witness confirmed that it was only in September 2019 that he brought his thoughts together and wrote up his statement. He confirmed that he did not make a statement at the time. He also candidly accepted that he did not see anyone shot on the waste ground himself. He said that he had not spoken to his brother Robert following contact with his niece and the signing of the statement and this was his evidence.

[169] Overall, I am satisfied that the witness was trying to help the inquest, however given the fact that he did not make a contemporaneous statement and that his evidence did not really contain eyewitness evidence in relation to how Father Mullan and Mr Quinn came to their death, this is of limited value to me. Overall, it was fairly obvious that this witness was viewing events at a distance and there was exaggeration in terms of what was actually happening on the streets at the time. That is not to say there are not threads here that are correct in terms of the various locations but I could not be confident that this evidence is reliable enough for me to use it as a foundation for any of my findings.

[170] A further witness who gave evidence about surrounding events was Michael O'Hara. He provided a statement to the Coroners Service dated 26 May 2018. His original written documentation dates from 1 March 1999. This was in response to his cousin, Michael Doherty, who had told him that the Bloody Sunday Tribunal were requesting similar civilian evidence in relation to actions by the British Army at the time. So this is the basis of the evidence that he gave to the inquest. It is on the basis of recollections of himself and his wife, Teresa O'Hara. In his evidence he said he was 25 at the time and worked in Short Brothers and Harland & Wolff as a Line Inspector in the main machine shop in Belfast. The family went to live in Moyard estate off the Springfield Road in late 1970. He said that on Sunday night 8 August he and his wife went to bed about 10.30 as he had to get up early for work the next morning. He said the next morning news on the radio announced that internment without trial had been enacted in dawn raids. It had been well-heralded in the days before and so work was cancelled. He said that the whole area was littered with debris from barricades and there was generally a pattern of chaos. He refers to his statement which he gave to the Bloody Sunday Inquiry. He said:

“I can remember the scene vividly: it was chaotic; lorries loaded with furniture evacuating families to safety; windows being boarded up; teenagers rushing to defend

the area; and children of all ages being ferried away in cars. There was no organised evacuation.”

[171] Mr O’Hara said that gunshots rang out and he went into the maisonettes, into the stairwell below his flat. He said it was already packed with children seeking cover, screaming in fear and excitement. He said his neighbour, Geordie, and himself pushed the kids up the stairs to their flat where both their wives had been watching the riots from the balcony. He said:

“An explosion of gunfire erupted all around us. It was frightening in its intensity; it was impossible to hear each other. The children were in hysterics; we all fell into our hallway and slammed the door. Anne had to be restrained by Teresa and Geordie from running up to her own flat where her two babies were sleeping. Teresa brought her own baby down from her cot and we lay there together on the floor hugging the few solid walls of the maisonettes. The gunfire raged on, the noise of the shooting enveloped all the surroundings. It seemed to be on top of us, on all sides everywhere. This lasted 2 to 3 hours. The firing eased off, except for an isolated shot from time to time.”

[172] Mr O’Hara said Geordie and himself crept along the balcony to his flat to get Geordie’s children who were asleep in their cots. He said that as their eyes adjusted to the darkness of the room they could see the room had been devastated by gunfire, holes had been dug out of the walls and the debris of brick and plasterboard covered the floor. He said they ran from the flat, back along the balcony to his home and lay on the floor with the babies between them until day break. He said the whole area was in a state of absolute shock in relation to this.

[173] This witness was clearly very emotional about events, given what he witnessed and that his children were involved. He came across as an educated man who was in the epicentre of something that was extremely distressing for both his family and all other families in the area. It is quite clear from his evidence that his maisonette was in the line of fire as was particularly his neighbour's maisonette at 21 Moyard Park. He described in very vivid detail how the dividing wall of the maisonettes was actually shattered and how the place was a total mess. In the course of this evidence some footage from the time from the BBC was shown which also showed the extent of the damage. He talked about the intense gunfire and whilst he could not say where it was coming from he said there was no threat from his flats. He remembered the TV crew coming around the next day and looking at the cot and the bullet damage.

[174] Mr O'Hara was able to talk about 21 Moyard Park, which is an important venue in relation to these inquests and was the home of Anne Marie Young. Her evidence will be considered later as it was received under Rule 17 for various reasons. It is interesting that Mr O'Hara said that he would not have known anybody from the area outside of his neighbours Geordie and Anne:

“We had come from different parts of town and ended up in an environment where everybody was strangers ... there was no community spirit ... there was no history of our living there so the only people we knew were them.”

[175] Mr O'Hara came to this inquest and clearly stated in his evidence that he had not been in contact with the Youngs since these events.

[176] Mr Hugh McAloran also gave evidence to me on 27 February 2019 in relation to these events. He lived at 34 Moyard Parade at the time. He was aged 24. He said he did not actually see the shootings but a man called Ali came to the Community Centre to report that a priest was shot and that three people had been shot

altogether. He reported someone was shot and Father Mullan went to help and was shot. Frank Quinn went to help also and he too was shot. He did not have any idea where the shots came from but the Army were firing from what is described as the Henry Taggart. This witness said there were definitely no gunmen firing at the Army from the Moyard area. He then refers to bodies being brought up the steps and a Mrs Spence telling him to bring the bodies to her house. Father Mullan was brought to Kathleen Spence's house while Frank Quinn was taken into Hugh McAloran's house. Hugh McAloran therefore gave evidence about Father Mullan's body coming to his house and the body staying in the house until the following morning. This evidence is contained in a statement he gave dated 5 November 2010 and there is also a note of an interview with Paul Mahon dated 23 February 1999 which completes this evidence.

[177] Mr McAloran also said that he witnessed the damage to the maisonettes at Moyard Park, in particular the Young's maisonette. He said he brought a journalist along to witness the damage and he described how it was a miracle that anyone had survived the attack on the flat. He learned that there were two children in the flat on the night of the shooting and somehow their father got them out and he said that the journalist was totally shocked at the number of bullet holes through the walls and the windows.

[178] I also received written evidence from Ms Anne Marie Young who lived in Moyard Park at the relevant time. She was excused from giving evidence after being traced due to personal issues, however I have considered her evidence as her account refers to shooting at Moyard Park flats where she lived. In particular, Ms Young said that she had some short-term memory problems and while not diagnosed as yet, had medication prescribed and that she may be experiencing the early signs of Alzheimer's. She said that her two children were trapped in the flat alone in their cots and were later rescued by her husband and Michael O'Hara who gave evidence to me. In addition, I saw some footage from a TV interview at the time which

Ms Young confirmed she was part of and photographs which showed damage to the flats by bullet holes.

[179] In her first statement of 6 March 2019 Ms Young confirmed that she lived at the time in one of the maisonettes in Moyard Park along with her husband Geordie and two young children aged three and one. She confirmed that she was separated from her husband and did not have any contact details for him. The CSNI attempted to trace Mr Young but could not locate him.

[180] Ms Young said her maisonette was at the very end of the top of the block. She said that the Henry Taggart Hall was directly behind and that she could see two sangars on the roof and British soldiers there. Ms Young referred to an article in the Belfast Telegraph on 10 August 1971 and she confirmed that it was her in the photograph with her baby daughter. She said the photograph was taken in the living room. It shows mother and baby in front of windows shattered by bullet holes.

[181] Ms Young says she remembers that once the firing started she and her husband had to go upstairs and they went on their hands and knees to get the children out of the cot. She said the children had pieces of wood in their hair as a result of bullets striking the cots and that it was a miracle the children were not killed. She said the family were forced to leave their home after that.

[182] Ms Young also referred to knowing Father Mullan and that when she was leaving her home she saw a white handkerchief being waved in the field, and she heard gunfire and the person with the handkerchief go down. She said she later heard Father Mullan had been shot dead.

[183] In the statement Ms Young also said:

“At that time the soldiers were firing from the Henry Taggart hall and the vicinity of the Springmartin Road.

The paratroopers were everywhere. As the soldiers were firing from both these positions it created a crossfire. I am absolutely certain that there was nobody with guns in either the Moyard or Springfield Park area. I have not got a clue why the army were firing at local residents.”

[184] Ms Young was asked to clarify some matters as she could not attend to give evidence. She therefore provided a second statement of 3 October 2019. In particular she was asked to comment on the evidence of Michael O’Hara who gave evidence about these events. She said his evidence broadly accorded with her recollection and upon examining material from YouTube footage and being shown the transcript she thought her flat was number 7U on the second floor. She said she had no further recollections. She also confirmed Hugh McAloran’s evidence and specifically confirmed that he was correct about the damage caused, which was to her daughter’s cot.

[185] Ms Young also said that she recalled two soldiers visited her flat the following day. She said “one of the soldiers suggested that there must have been a gunman in our flat the previous night. At this, the other soldier, who appeared to be of senior rank, told him that had there been a gunman in the flat, there would have been blood everywhere ...” She said her father was there, that he had previously served in the British Army, and he said the same thing.

[186] Ms Young was also asked to comment on accounts that the body of a dead gunman was seen on the balcony of 21 Moyard Park on the morning of 10 August 1971. She said this was untrue. She also said she believed the gunfire came towards her flat from Springmartin but she did not know from whom. She said:

“I believe that the soldiers in the Henry Taggart Hall believed that they were under attack from people in Moyard flats and as such fired at our flats. I believe they

mistakenly thought that the gunfire from Springmartin had come from our flats (from any flat in Moyard) that we would have known.”

iii. Rule 17: civilian statements

[187] I have also had the benefit of a number of statements from residents in the local area. The first tranche of these are residents of Springfield Park and the benefit of these statements is that they were made for the inquests that happened in 1972. These statements were admitted under Rule 17 due to the fact the witnesses were either deceased or in ill health or could not be found.

[188] The first witness statement which is of relevance is from Mrs May Small who is described as a 24- year -old housewife of 80 Springfield Park. She described the day in question from 7.00am in the morning when she was woken to the rattle of dustbins. She also described an issue with the residents of Springmartin. She said that there were lorries moving into the Springmartin area, one lorry she said displayed a Union Jack. She described a large iron- type fence separating Springmartin from Springfield Park. She said that there was shooting from the direction of Springmartin by the Protestant people. This became very heavy and obviously caused a difficulty for the family so at about 7.30 or 8.00pm obviously a decision was made to bring the children to safety. She referred to the person who came to take her child as Bobby Clarke. He was carrying her child across the field and she was also in this area travelling towards Moyard with a large number of other people towards what they presumed was safety. She referred to being asked to give over some white nappies to people to try and stop the shooting which was happening when they were in the field but she said this did not happen. She also saw Father Mullan she said as well as Bobby Clarke. She said Father Mullan had a white cloth in the air and was walking towards the direction of Bobby Clarke and she said in her own words that that he was “hit and hit again”.

[189] This witness said the firing appeared to be coming from the flats at Springmartin and from the Army post at Vere Foster School. She said "I did not see any men shooting from Springfield Park and I did not see any soldiers in that area." Mrs Small's husband, Anthony Small, 25 years of age, a production worker, also filed a statement at the time and he largely confirmed what was said by his wife. He also referred to heavy gunfire which appeared to be coming from the direction of the Springmartin Road, which meant that he along with other neighbours had to leave the house. He said they were crossing the waste ground with the families going in the general direction of Moyard. He also said when this was happening he heard a heavy burst of gunfire and everyone who was in the area lay down. He said this gunfire appeared to come from the back of them which is in the direction of Springmartin.

[190] Mr Small said he immediately looked around upon the gunfire and saw a man fall in a slumped position onto the ground about 30 yards away. Another man in the area shouted to hold up something white and Mr Small said he held up a white child's bib but the shooting was still continuing and he ran for cover behind a wall at Moyard flats. He had a small child with him, about two years old, and he said his wife and other people also took cover behind this wall. He also confirmed that he and his wife went into the flats to look for a child who was being carried across the waste ground by a neighbour, Mr Robert Clarke. He did not see anything else and was informed about the shooting of Father Mullan and Mr Clarke. He finished his statement by saying "at no time did I see any man in the Springfield Park area with firearms."

[191] Another witness from this area, Mr Kevin Moore, also made a deposition for the inquest in 1972. He lived at 50 Springfield Park. There is a statement also from Mr Moore, which is dated 21 August 1971 signed by Thomas Glynn, which obviously pre-dates his deposition. There are some differences between the August 1971 statement and the deposition in 1972. Common to both is that there were obviously difficulties in the area which escalated during the course of the day with a crowd

which he estimated was about 100, gathering to attack the Springfield Park area from Springmartin. This escalated around 7.30pm and the residents of Springfield Park then started to evacuate their children in the direction of Moyard Community Centre. He said he did the same himself. He said he could hear gunfire in the vicinity of Springfield Park. He said at the time the firing seemed to come from the direction of Springmartin flats. From the sound he would say they were shotguns rather than Army guns (this is in his first statement). In that statement he also said "when I came back from Moyard flats I saw soldiers coming down through the gardens at the back of the house in Springfield Park." He referred to being in the waste ground and he said the gunfire was definitely coming from SLRs and he saw two soldiers with dark berets on the roof of one of the flats.

[192] Mr Moore said that he saw Robert Clarke walking across from Moyard flats and before he reached him he was shot. So he crawled out to help him. He also saw, he said, Father Mullan waving a white handkerchief crouched over Robert Clarke giving him the last rites whilst some women and children were making their way along the grass over to Moyard flats. He said that Father Mullan said he would get an ambulance and walked away in a crouching position waving a white flag, however he was then shot. He said another person was shot and he in the first statement in 1971 said all the shooting at this time seemed to be coming from two soldiers on the roof of Springmartin flats. He said he recognised the sound of SLRs and there was a definite difference from the gunfire earlier on in the night. He said he was trapped in a piece of waste ground for some time and then managed to get to Moyard.

[193] The deposition in 1972 was unsigned and somewhat different from the evidence I have recounted above in that it left out some of the details about where the shooting was coming from and the identification of two soldiers on the roof. It did contain a quote that Father Mullan when speaking to Robert Clarke said "I will get an ambulance for you" and then it stated that a shot rang out and Father Mullan screamed out in agony and rolled up in a ball dead. This deposition also referred to

a man in civilian clothing carrying a first aid box and wearing a white helmet running over to help Father Mullan and also another man who was shot in the head. Reference was made to Father Mullan being bare headed and wearing a black suit and Mr Clarke was wearing a black jacket.

[194] The next statement is from a Mrs Mary Dempsey who is described as 35 years of age, a housewife of 79 Springfield Park. She also has a deposition attributed to her, although unsigned, for the 1972 inquest. She said on the night in question she was at her sister's house at 93 Springfield Park, that is a Mrs Morrow, and around about 8.00pm there was stone throwing coming from the direction of Springmartin estate. The crowd had been there since earlier that day. She said that she left her sister's house shortly after 8.00pm and as she was walking down the park towards her home she heard a shot being fired coming from the direction of the Protestant crowd at Springmartin. She said this shot was followed by a volley of shots also from Springmartin. She said at this stage the men folk from her street were trying to get the children across the field at Moyard to the Community Centre. She said she was going across the field with eight children and as they were crossing the field they were shot at by the military. She said, "I think it was the military because they were in our street." She said she heard people shout that Bobby Clarke had been shot in the field and the next thing she remembered was Father Mullan shouting at them to keep down; he was in the field beside the injured Clarke. She said that she heard more shots ring out and someone said that Father Mullan had been shot. Mrs Dempsey said she did not see him being shot and she got her children to safety and they were not injured.

[195] The next statement I have considered is a deposition which was made by Father Felix McGuckin, 28 years of age, for the inquest of Father Mullan on 26 October 1972. From the handwritten notes and the deposition which have been transcribed, as best they can be, it is clear that Father McGuckin did give evidence at this inquest and his statement is important in that context. It is particularly significant in relation to the movements of Father Mullan immediately before his

death. Importantly, Father McGuckin said that at 8.00pm on 9 August 1971 he left Corpus Christi with Father Mullan going to Father Mullan's house at 45 Springfield Park. When they got to Springfield Road he said he saw a very large crowd of youths in the Springmartin estate stoning houses in Springfield Park. He said:

"As we went into Springfield Park a number of people gathered from the Springfield Road area and they were trying to oppose the crowd from Springmartin."

[196] Father McGuckin said that he went into Moyard Park and Father Mullan continued on up to Springfield Park. The next part said that when Father McGuckin re-joined Father Mullan he was standing outside his own house trying to get people off the street for their own safety. Sporadic shooting then broke out. The shooting was coming from Springmartin estate. The witness in the deposition said that he and Father Mullan went into his house and he phoned the Army (that is Father Mullan) and told them of the shooting from Springmartin and that it seemed to be directed at people who were fleeing from Upper Springfield Park across waste ground to Moyard estate. The deposition said that shooting continued and about 20 minutes later both of them looked through field glasses at the unfinished flats in Springmartin estate and "we saw soldiers on the stairways of these flats taking up positions." Father McGuckin then said the firing continued however although the troops were present. He said both he and Father Mullan were crouched in his doorway facing the waste ground opposite when they saw some of the people in the waste ground stop and call for help for an injured person. He said this would have been around 9.15pm at the latest.

[197] Father McGuckin also recounted that Father Mullan decided to go to the injured person's assistance. He took a white handkerchief out of his pocket, and started to go across the waste ground to the injured person; he was waving the handkerchief above his head as he went. Father McGuckin said there was then a particularly heavy spate of gunfire and Father Mullan went to the person and he saw

him duck down in the grass. Father McGuckin said he shouted to him stay where he was for a moment. Father Mullan remained where he was and Father McGuckin then said he immediately phoned the Army to tell them that he had gone out into this area to assist an injured person and that there was still shooting into the area to which he was going. As the soldiers were in the flats in Springmartin, Father McGuckin asked them if it was they who were firing, not to fire at Father Mullan or anyone else out there. The Deposition contains the following:

“The army said they would attend to this but the firing just continued.”

[198] Father McGuckin said that when he looked out again for Father Mullan he had moved from the position he was in and was now out of his vision behind a ridge where the injured person was. Father McGuckin then said he spent a long time lying on the floor and after some time when Father Mullan did not return he phoned the Army and reported this fact and wanted to go out and look for him. The reply he was given was “I was told that in the circumstances I could be shot if seen moving.” He then realised later in the evening that Father Mullan’s body had been recovered. The deposition finished with these words:

“There was no shooting from the waste ground. There was shooting coming from Springmartin and I can’t say whether the shooting was being returned from Springfield Park or the Moyard estate. It is highly unlikely that shooting would be coming from Springfield Park as most of the people there were fleeing with their children to safety.”

[199] There are handwritten additions to the depositions which obviously came about through the inquest process and which are hard to transcribe, but doing the

best that can be done it appears that Father McGuckin added additional evidence as follows:

“Mr Hutton (Counsel): When Father Mullan went out it seemed to me the people he was seeing to had been wounded. After he went out the firing sounded right ... three or four shots, one after another ... after the shooting I did not see Father Mullan again, but I did not know whether he was shot by that firing or not. The firing was not continuous but some of the shots followed by another one or two. I would say there was intermittent fire. The gunfire I heard all gave me the impression it was being fired right by my side. The waste ground was, there had been a river there and it was ... Father Mullan had gone to stop ... I have no evidence of soldiers firing into the Springfield and Moyard areas, but I would be prepared to accept it that gunmen were firing at Springmartin and the army were returning this fire because Major X has said so. Shouted to Father Mullan to stay, he was so I could phone the army and explain who he was. I rang the Army at the Henry Taggart Memorial Hall.

Mr Cahill (Counsel): When Father Mullan spoke to the army he said there were people coming across the wasteland and they were only trying to get to safety, that gunmen were shooting at them and the army should try to stop that. They were leaving too and from between 56 and 66 Springfield Park. I did not see any of them fall as a result of gunfire. I did not see any firing from the Moyard area at these people in Springmartin or the army. No one in the army asked me to try to quiet things in the area.

When I informed the army about Father Mullan I was told I was likely to be shot if I were seen moving in the open space. That was at about 9:30-10pm.

Mr Rankin (Counsel): You cannot see 13-21 Moyard Park from Father Mullan's house but I had returned from that area just before the shooting started.

Mr Hutton (Counsel): I shouted to Father Mullan to stay where he was firstly, because I wanted to warn the army and firstly (sic) because I realised he was in a dangerous position."

[200] There is a further deposition which is unsigned from a Mrs Sheila Morrow, 34 years of age, housewife, of 93 Springfield Park. She also talked about the evening and the crowd in Springmartin throwing stones into Springfield Park and a tense atmosphere with intermittent stone throwing. She made the point that there was a soldier in her back garden about 8.15pm and she could hear gunfire although she could not see who was doing the shooting. She said there was shooting coming from the Protestant crowd at Springmartin. She talked about a Guinness bottle being thrown at her house striking the window frames. She said she remained in her house during the rioting and could see four soldiers positioned in gardens in Springfield Park. She said sniper fire continued into the morning of 10 August but she did not see anyone being shot.

[201] Similarly, there is a deposition which is unsigned of Michael Hemsworth who also lived at 37 Springfield Park. Mr Hemsworth also described the trouble in the Springfield Park area. He said that shooting broke out at about 8.30pm and the streets were cleared immediately. He also said that at about 8.45pm he saw two soldiers wearing dark berets on the roof of the Springmartin flats about 50 yards from his back door. He said he could hear them talking in English accents, they

seemed to be giving directions to one another as to where to shoot, and he could distinguish phrases like "over a little bit", "a bit higher." He said that he watched Mr Clarke cross over from Moyard flats to Springfield Park over the waste ground and then he saw him fall. He did not know he was hit. He said about three to four minutes later he saw Father Mullan run out to Mr Clarke waving a white handkerchief above his head. He said that Father Mullan crouched down over Mr Clarke for a short while and then he started back again holding something white in his hand. About half a dozen yards from Mr Clarke Father Mullan was shot and he fell to the ground. This witness said that he seemed to crawl along for a bit and then he was hit again and a leg and arm seemed to stick up. He said that the firing continued all this time with some of the shooting going towards Moyard Park. Then he said about 10 minutes after Father Mullan was shot two men wearing white hats came out from behind Moyard flats and went over to the priest. He said he also saw two people getting out over by the railings, one of them seemed to be hopping as though he were injured in the leg. At about 10.00pm this witness said he went out into the waste grounds and crawled towards Father Mullan. When he reached him he was dead. He said he then heard a moan and saw a youth lying not far from Father Mullan. He said he asked him if he was hurt and he said no but that there were others further on up who were.

[202] Mr Hemsworth then said that he crawled further on up and saw a chap lying on his face and he was shot in the back. He ripped his coat and stuck his handkerchief on his wound. Another man lay beside him who was shot in the head. He was about one yard away from the man with the injured back. About 10.30pm he went up to the first aid post in Moyard Crescent and got a camp bed and brought it back to the injured man and took him off the waste ground with the help of about four others. He said about the same time somebody lifted the body of the dead man beside him. Then somebody went out to lift the body of Father Mullan but he said firing broke out again at that point. He was on his way back to help carry out Father Mullan's body when he got pinned down in a ditch by gunfire and he lay there for about half an hour after which he crawled back to his house.

[203] A further deposition which is again unsigned and prepared for the 1972 Inquest was made by Tom Callaghan of 38 Moyard Crescent. He refers to the fact that the residents of Moyard held a meeting on the night in question at 6.00pm to discuss internment. At this, the residents of Springfield Park attended and complained about people from Springmartin flats invading the Springfield Park. He said some of the Moyard residents went down to the waste ground behind Finlay's Factory and saw a crowd from Springmartin flats throwing stones into Springfield Park. Some stones were also being thrown back. He said the Army chased them all from Springmartin flats and took up positions on the roof of the flats between 7.00-8.00pm. It was rumoured that the Army were coming down from the top of Springfield Park so everybody scattered. This witness said this in the deposition:

"The army opened fire from the Springmartin flats and the Vere Foster School while women and children were crossing the field."

[204] In the deposition Mr Callaghan stated that he saw Father Mullan coming out waving a white handkerchief and he was shot on the way back towards Moyard. He said two first aid men ran out to help him about 10 minutes later and they were pinned down on the field by gunfire from the Army. He said Father Mullan was shot twice - at another point in the statement he said Father Mullan was shot about three times. He said about 10.30-11.00pm he helped to carry out the priest's body and the body of a young man shot in the head. He said he tried to get the priest's body down to Corpus Christi but the soldiers would not let them past the barricade. He finished his deposition by saying the army in the Springmartin area wore black berets and those in Vere Foster School wore red berets.

[205] Michael Russell made a deposition, which is again unsigned, for the original Inquest. It will be remembered that this witness has been referenced by others. He did not actually live in the area - his address is 58 Ballymurphy Road and the

previous evidence from witnesses is that he came to the area with others to assist the residents there. His deposition said that he arrived in Springfield Park at around 8.15pm on the night in question. Stones were being thrown from Springmartin flats at the time. He said that "I could see soldiers in the area of Springmartin flats but they took no action against the mob. He said that about 8.30-8.45pm he thought the shooting started. He stated that soldiers started to climb on to the roofs of the Springmartin flats. There were soldiers and civilians on some roofs. This witness said that he made for cover in Moyard flats. A man left the flats and headed across the waste ground; about half way across he was shot in the back. The witness said that "6 or 7 of us ran out to him from the flats when we reached him we were pinned down by gunfire." He stated that Mr Russell said after a few minutes he saw Father Mullan arrive and give the last rites to the wounded man. He said he got a loan of a T-shirt from a man lying nearby and started to crawl back with him.

"We were a dozen yards from the injured man when Father Mullan was shot. He drew his legs up in front of him after he was shot. There was another shot and he screamed again, then he started to pray in gasps."

[206] The statement contained an averment that his arms and legs were moving from side to side and attracting gunfire from Springmartin flats. The witness also stated:

"I could see about 5 soldiers and several civilians scattered through the flats. One bullet hit the heel of my shoe and another nicked me in the leg. Shortly after Father Mullan was shot I heard somebody else cry out and about an hour later some first aid men came out from the flats."

[207] He said that he helped a chap with an English accent with one of the first aid men and a young kid ran towards the flats and attracted some gunfire. He said he was lying about a yard away from Father Mullan facing towards Moyard flats.

[208] A further deposition was provided for the inquest of Francis Quinn by Anne Quinn. This is again unsigned and there is a note in the margin that the witness was not called. Anne Quinn is the widow of Francis Quinn. She said in the statement that she resided at 49C Moyard Crescent with her husband and daughter. She last saw her husband on 9 August 1971. He was unable to get to work that day because of the rioting on the Springfield Road so he was in the house all day. She said he went to the front door several times during the day to see the rioting. She said that she went to bed with her baby daughter between 9.00 and 9.30pm. Her husband was still at home at this time. She said that early the next morning a priest called at her home while she was still in bed and told her that her husband had been shot. She said she was not aware that he had been out through the door during the night.

[209] A letter has been provided dated 17 August 1971 from a Mrs Carson of 17 Moyard Park, Belfast, dealing with events at Springfield Road. This letter has been hard to read but transcribed as best as possible it refers to the fact that Mrs Carson was out visiting her father and when she went home she found she was unable to get up the Springfield Road so she went back to her mother's. She said early the next morning at 8.30 she went home and found that the girl next door's hall had been riddled and in her own home a bullet had gone through the frame of one of the bedroom windows and travelled across the room through a wardrobe ... through there ... across the landing into her bedroom, through the curtain and right through the window and out. She said she found locks broken on the door, electric sockets out, her sister's wedding presents destroyed and she made a complaint in relation to this but was told by a clerk that there nothing that could be done.

[210] There is a further account in a statement form from a James Connolly, 14D Moyard Crescent, Belfast. This typed document is not dated but appears to be from the time and purports to be an eyewitness account regarding the death of Father Mullan and Frank Quinn. It said that at approximately 8.45pm a man was shot in a field beside Finlay's Factory. He went to his assistance waving a white flag and was joined about two minutes later by Father Mullan and a few lads from the area. He said that after reassuring themselves the injured man was not going to die he wanted to clear the field while waiting for first aid. On returning to the field he noticed Father Mullan's body leap through the air as a result of the impact of a bullet as Father Mullan screamed he had been shot. A lad beside Father Mullan was also shot but not seriously and left the field by himself. Mr Connolly then referred to first aid men approaching Father Mullan on the field. He said there was continuous heavy gunfire during this time and for two hours from the Springmartin estate and it was about 11.00pm before himself and a Mr Bobby Murphy were able to collect the bodies of Father Mullan and Frank Quinn. He said he was unable to gain access to the field due to heavy gunfire and was observing what had been described by him at a distance of 15 yards beside a block of flats at Moyard Park.

[211] Mr Connolly said that after removing the bodies during sporadic gunfire they asked the Army at the Taggart Memorial Hall for permission to remove Father Mullan's body to Corpus Christi and were told in no uncertain words to go or they would join him. So he said they were forced to leave his remains in a house at Moyard Parade and the remains of Frank Quinn were also removed to a house at Moyard Parade. He said in this document that it was approximately 9.00pm when Father Mullan was shot. He said that there was continuous fire from the fire point at Springmartin estate directed towards the flats beside the field in Moyard Park. He said he believed that the white flag he had was acknowledged on his first entry into the field as he was not shot at. He said no one in the field had any weapons or discharged any shots. There was no weapon with the injured. It was still broad daylight and it must have been obvious to the people manning the fire point that

they had gone into the field to render assistance to the wounded man. The statement finished with the following:

“Observations on the bodies as I found them:

- (i) Father Mullan was lying on his back with head inclined to right. As I tried to lift him I put my hand on wound and recoiled in horror the wound being on his right hand side. Later on I found two wounds entrance and exit wounds on left and right hand side.
- (ii) Frank Quinn - As far as I could see he was shot through the back of the head whilst lying on his stomach.”

[212] There is a statement from a James Gray which is a statement witnessed by Eugene Arthur BSc and so must have been from around the time in 1971. James Gray was noted to be a resident of Moyard Park. He said in this statement that he was at the junction of Moyard Park and Springfield Park on Monday 9 August in the evening at 8.00-9.00pm trying to get home. He heard shooting and lay down to take cover and bullets hit the wall near him. He said he could see one soldier and the gun of another on the top of Springmartin flats wearing bullet proof jackets. He saw a man running from Moyard Park to Springfield Park to the women and children. About 10 minutes later he came back with a child in his arms. The soldiers shot at him and missed. A woman and child came over next and the soldiers shot at her too but missed. As far as I could see there was no other shooting taking place. He said the man ran back across the field and was shot in the field. Father Mullan came out from his house and in his left hand he was waving a white handkerchief. He was walking slightly crouched with this flag in his left hand. The Army shot at him and missed. He went on and fell as he got to the wounded man.

[213] A similar type statement, although it appears to be incomplete, was provided from a Mr Robert Hutchings of 57 Moyard Crescent. He said that he heard there was some fighting in Springfield Park and several of them went down there about 7.00pm to see. He said he went right up the back of Springfield Park and joined a crowd confronting a crowd from Springmartin. He said that a man was shot in Springfield Park with some shotgun pellets in the neck. At this, two shots were fired from Springfield Park, followed by four more. The Springmartin crowd scattered and the gunmen left saying that if they returned then bottles and stones should contain them. At that moment the Army was spotted, three behind Springfield Park and two on the roof of Springmartin flats. Mr Hutchings also stated that:

“They started firing indiscriminately into Springfield Park thus commencing about 35 seconds after the last shot from Springfield Park. The marksman on the roof aiming up Springfield Park did not fire initially but the one giving him cover of fire did fire. The three coming down from Springmartin also fired.”

[214] Mr Hutchings referenced that the soldiers on the roof had SLRs and they were wearing red berets. He said that he could not see what colour of berets the others were wearing. The witness said at this stage he was lying in the road at the junction of Springfield Park and Moyard. He dashed for the garages at Moyard Park immediately for cover. He said no shots were returned towards the Army. He said about 10 minutes after reaching comparative safety he heard automatic fire directed towards the Army from the back of the garages. This went on for about some time and people were dashing for safety and were shot by the Army and he thought that it was wise to stay where he was between the two gunmen. He said the gunmen kept firing for about two hours after this. He said this was about 200 yards from the field which was not in any line of fire. He said after about 20 minutes four or five women started to cross the field from Springfield Park also with children.

[215] The first page of a statement from the time from an Alex Mitchell was made available. It seems to me that this is signed by Eugene G Arthur BSc so it is from the time. It said that the witness spent 9 August 1971 in Springfield Park observing stone throwing from the flats. He said people in the park were obviously concerned. Police mingled with the mob at various stages and both the police and the Army made no attempt to disperse the mob in spite of phone calls from the Park for protection. He said a lot of people boarded up windows and at about 8.20pm his wife shouted to him "they are in the Park" and upon going out he saw a stoning battle going on opposite his house, which appears to be No. 89 Springfield Park. A mob were climbing the railings and coming through a gate in the railings, they were screaming abuse. Various other parts of the Park were also under attack. He said he left his house and went to the bend of the Park which was under heavy attack from stones and bottles and he heard windows being shattered. He said that he headed back for his own house and heard shouting from Springmartin and he concentrated on getting the women out. While they were moving people down to the back garden he heard her shout "the Army's coming." A portion in brackets said that the crowd now included lorry loads of people who had arrived about 8.20pm opposite the park.

[216] After that, this witness said:

"I could clearly distinguish the shooting was due to the army as it was heavy and clear like an army rifle. I ran up to the back of my house and the army had passed my house and missed me by some chance on their push down through the garden. The mobs were coming in behind them and all shooting at this stage seemed to be from the army. I think they were also being shot at but I did not see anyone firing on them."

[217] Then the witness said that about 8.50pm he went into the kitchen and heard quite distinctive rifle fire. He said "I looked and saw two soldiers on the ridge tile of one of the Springmartin flats. They were shooting from there." He said there were children still being carried across and the Army kept firing in their direction. He said the two soldiers on the roof were doing most of the shooting. He then said he went out to his back door and he could see through the gap in the houses an unarmed man running towards Moyard on the waste ground who appeared to be shot in the back and fell to the ground. The next person who came into view through this gap was Father Mullan. He was in a crouched position. He said: "I saw him fall as I heard a shot." He said immediately after this he heard another shot and he did not get up again. He said another man running from Moyard direction towards them was also shot and he fell before getting to them. Another man ran as shots were directed towards him. He said: "In my opinion Father Mullan was shot from Springmartin flats by the two soldiers on the roof because from where I was standing I clearly saw both of them, I clearly saw both the target and the marksman." Then he said he spent the night on the floor listening to windows being broken and shooting until about 2.00am. He said the soldiers who came into the Park were wearing maroon berets but he could not tell what colour of berets the ones on the roof were wearing.

[218] There are also two statements from Josephine Murray and James Murray who lived at 25 Springfield Park at the relevant time and were a married couple. Josephine Murray's statement is undated, James Murray's statement is dated 11 March 1999. The Murrays set out the issues that were pertaining to the Springfield Park residents who were under attack from the Springmartin residents. Interestingly, the Murrays also pointed out that Father Mullan who was the local priest and who lived in the local area arrived on the scene and tried to help people. The Murrays refer to neighbours helping each other. Mr Murray's statement referred to intense gunfire which broke out and seemed to last a very long time. The heaviest firing seemed to be from the Army SLR rifles firing from the Springmartin direction and Mr Murray said these particular guns had a very distinctive bark when discharged. Mr Murray said he heard the screams of a young person coming from

the direction of the waste ground and he realised somebody had been badly hurt but it was not possible for him to go out to help.

[219] Mr Murray was involved in the Residents' Association and he said poignantly that the following morning he proceeded to the top of Springfield Park to see some committee members and discuss the situation. He said:

"I found the street littered with debris, some houses were abandoned and others were being evacuated. The families were in complete shock. I was told that the first houses attacked with petrol bombs from the Springmartin estate were in fact unionist neighbours' homes - so clearly the mob were unaware of the make-up of our street which was approximately 70% nationalist and the remainder were unionist."

[220] There is then a note of an interview with a Mr Frank Toner taken by Paul Mahon of 20 April 1999. This witness said he was with others near the Moyard flats when he saw somebody being shot on the field. He was asked whether it was Bobby Clarke and he said no but he went to assist the injured person and he said there was shooting at the time. He said it must have been coming from the Springfield Park way, it could not have come from anywhere here, maybe a bit of shooting from the cardboard factory. He said he was with Davy Russell at the time. He said the priest came over to the flats and he was beside them and we said "don't be going out there he is still alive" but he went anyway. He said he watched as Father Mullan was shot, he was standing and he went right over. He could not remember much else in terms of what was happening in the field. He repeated that he thought the fire was coming mostly from the Springfield Park direction and in terms of how many people were shot in the field he said he only knew two. The fellow from Turf Lodge and the priest. He said that the fellow from Turf Lodge said he had been shot in the ear.

[221] There is also a handwritten note from a Miss Amy Wardlow which has been transcribed as best it can be. This is undated and it refers to Mrs Wardlow's recollections as she lived at 94 Springfield Park. She said herself, her husband and her four children had to leave due to the bottles and stones being thrown from the Springmartin flats. She said she went up to the community centre at Moyard Park to get a stretcher and when she got to the field she saw Father Mullan and passed him and people said he was dead. She said the fellow Father Mullan was about to attend to was injured and moaning and he was got on a stretcher, she assisted, and taken away. She said Father Mullan had on his priest's clothes and there was a clean hanky not far from the priest and she used the hanky on the wound of the injured man. She said he was taken away on a stretcher and she went to the community centre. She refers then to having to go back the next day to her house and finding it effectively wrecked. She said they moved then into No. 2 Stockman's Gardens with most of their salvaged household effects and that this caused quite a bit of financial difficulty given that they had been lent money to buy the new house at 94 Springfield Park that they could no longer occupy.

[222] There is also material from a Patrick Fennell who made a deposition to the original inquest. He later told the HET that he saw 2 men with handguns shooting towards Springmartin from a ginnel at 51-53 Springfield Park. Mr Fennell said he attended to Bobby Clarke when shot.

[223] Further handwritten notes from Paul Mahon's interviews in 1999 with a range of people have been provided, although obviously these are of limited value and so I will summarise some highlights from them. None of them I should say are evidence of such strength or value that they are of particular probative value save that they give an overall view of events. There are notes of interviews with Margaret Connolly, a Sean McCrudden, a Hubert Gallagher, a Gerry Mooney, a Kathleen Spence, Phyllis O'Hare and a Michael (surname unknown) in relation to this.

[224] As I have already said in the introductory sections of these inquest findings, some care must be taken in relation to these interviews which were introduced late in the day in this inquest and are obviously not best evidence and sometimes are hard to decipher and may be partial. It is of note for instance that various opinions are given throughout the interviews. For instance, in relation to one of these witnesses, that is Gerry Mooney, Mr Mahon appears to comment “dubious witness.”

[225] It is clear that the witnesses all refer to difficulties on the morning of 9 August. I do not take much from many of the witnesses at all. For instance, there is another problem if you look at the narrative from Sean McCrudden. He was aged 12 in 1971. He said he was playing in the vicinity of Moyard and he heard shooting coming from Springmartin. He was in the field at the back of Springfield Park. One man actually fell off the flats and he heard people screaming and shouting for help.

[226] Hubert Gallagher referred to Protestants from Springmartin attacking houses in Springfield Park, which is uncontroversial. Although he did say in the handwritten note the figure on top of Finlay’s roof was not a soldier he also referred to a Protestant gunman and paratroopers on rows overlooking Springmartin. There was a body lying in the field. All shooting was from Springmartin and the back of the Taggart. Father Mullan had a white handkerchief, he held it up. It took him three hours to get home.

[227] Phyllis O’Hare referred to Father Mullan speaking to her sister-in-law at the gate, obviously by way of trying to give assistance. The most substantial interview is with Kathleen Spence, which seems again to have been taken by Mr Mahon. She again talks about the difficulties in the area in Springfield Park being under attack from Springmartin. In the handwritten note though she said this:

“Everybody knew that the IRA was in existence, nobody knew who they were, I didn’t anyway but you saw

people that you knew walking about with ammunition and guns wrapped up in carpets, it was a fascinating thing, nobody knew what was going to happen but you knew something was going to happen so you got the children in even on a lovely day with the sun out. Your first priority was the kids.”

[228] Ms Spence appears to have been with other women and children going to the Moyard Community Centre which she said was packed. She did refer to being able to see tracer bullets coming in the sky and she was helping out, it is clear, with the children. She said that a soldier was shooting constantly from a look-out post at the Taggart and this she had a problem with as she was trying to go to a baby in the flats and some interaction appears to have happened with the soldier by way of shouting to tell him to stop. She said a person with all the strain took a heart attack in the Community Centre. She then talked about how the priest was brought to her house and she described that he was put on her wee girl’s bed and tended to at her actual house, and that the people there said the Rosary and lamented about the whole thing and then the ambulances came in the morning to help. She said a worker called Ali came into her house that morning and she said the thing he did “I’ll never forget him for it.” She said that up her whole landing and around the paper was all blood where the blanket had touched. She said she had not even noticed it, but that “wee fella” came into her house and cleaned it all before her children came in.

[229] She said as far as she knew there were five bodies taken out of Moyard, “I do not know who they were but they were in different people’s houses.” She said that she could not stand over that figure or swear by that. There was more than one ambulance in the street. There was talk of bodies being in the empty flats. There was talk that there were three bodies in the flats. She said that “it is only hearsay” but “the talk was the three bodies that people had put in the empty flats because they were supposed to be IRA men and that is why people could not take them in their

own houses – that is what I was told. Whether that is true or not we don't know, we don't know yet."

[230] This witness also stated: "I know there were volunteers in the area." She referred to two figures standing in the Moyard Crescent area who were armed. She said they had handguns and they put them into their back and they got away. The statement by the person known only as Michael regarding 9 August 1971 is dated 1 June 1999. Again, this is an interview with Mr Mahon, again it refers to the dangers at the back of Springfield Park from the people in Springmartin. He said there were Protestants waving Union flags. He said:

"I didn't see them firing any guns, I saw no one firing guns but shooting had started."

He said when the shooting started it was heavy shooting, they had never heard anything like it and was scared.

"I was inside the flat which were riddled. There was a child in the cot in one of the flats, how the child was never killed is beyond me, we were in the hallway lying on the floor and about 10pm that night I saw the fellow lying there, then I saw priests come down, I didn't know at that particular time that the priest had been shot I thought he was waving something. I came out of the flat and ended up at the back of New Barnsley, somewhere at the top of Moyard and there was a fellow lying on the ground. Someone said his face was blew off, I don't know and they were searching him to try and get ID off him but we couldn't find out who he was."

[231] There is also a handwritten statement from Francis McNulty dated 11 September 2018. She lived with her husband Harry at the time in Springfield Park. She also described the difficulties in the area when internment was introduced and the fact that the homes were coming under attack from the Springmartin estate. She said it was totally chaotic, people were running everywhere and panicked just trying to get somewhere safe to stay. She confirmed what others said that people were running through the fields between Springfield Park and Moyard Park trying to get to safety while shooting and absolute hysteria were everywhere around them. She said to highlight just how manic it was a baby was handed to Harry from a local resident while running down the street of Springfield Park. Harry McNulty has been mentioned in this inquest before as he was arrested on the day in question in possession of a shotgun.

[232] Mrs McNulty said this about that situation:

“To protect our property my husband stayed at home, he legally held a single-barrelled shotgun and he was taken from our home by British soldiers who severely beat him and threatened to shoot him, they also confiscated his shotgun. He was dragged from out of her house and through the gardens of her home and taken to the Springmartin estate where soldiers handed him over to a loyalist mob who continued to severely beat only stopping when a soldier fired a shot. He was then transported to Springfield Road Police Station where by chance he recognised a Senior RUC Officer and called him by name. The officer did not recognise him due to the state of his face and arranged to get the blood wiped away. This officer knew his name and address as Harry had previously been the site foreman when the Springfield Road Police Station was being refurbished.

He was then taken from the Police Station to the entrance of the Springmartin estate on the Springfield Road and left to make his own way home. A neighbour in our street who was a nurse took him into her house and cleaned and bandaged his wounds. He was beaten black and blue. From that day until he died he was in constant pain and using pain relief. A few months later the shotgun was returned to my husband and he was never charged with any offence and just to clarify the gun was never fired.”

[233] There is a statement from Elizabeth Adams who was Elizabeth Callaghan at the time, the daughter of Davy Callaghan. She gave general evidence about what was happening at the time and confirmed in relation to her father that he was taken to the barracks having been shot and that this had a profound effect on him. This lady was very young at the time and her evidence really related to events in Henry Taggart Hall and how people were treated there, which I deal with in relation to Incident 2.

[234] Anna Breen also gave evidence to me, but again this related more to Incident 2 and the death of Mrs Connolly as she was Mrs Connolly’s neighbour. She made a statement to the Coroner’s Investigator dated 12 September 2018. It is interesting in that she talked about Father Mullan. She said that earlier in the day Father Mullan had been in the street and she would have spoken to him. She said she thinks he had relatives visiting his house and he asked if the kids would help him prepare for his visitors and get a few groceries for him. Later on that day her daughter Linda, who was 13 at the time, went along with Briege Connolly and another girl, Eileen Kennedy, to assist the priest. I deal with this evidence in more detail in relation to Incident 2.

[235] The final civilian witnesses I considered are Thomas and Nuala McAllister. Mr McAllister gave evidence and Mrs McAllister's statement was admitted under Rule 17. Mr McAllister had completed a statement at the time dated 21 August 1971 witnessed by Thomas J Glynn and provided a statement to the Coroners Service of 5 June 2018. He confirmed in evidence that he was living at the time at 69 Moyard Crescent and on 9 August he went round to Springfield Park to see what was happening with people being put out of their homes and to offer his help. He described the riot situation. He said he did not see any police or British Army within the area at that time. He said he did see people running across the field. He helped a man with a foot injury. He said he thought this occurred before what he would term as the big shooting and that his original deposition had got the sequencing wrong. He said: "I don't think I would have heard handguns and put this injury down to the possibility." He said he took this man with the foot injury to his own house, he did not know how it happened.

[236] In his statement to the Coroners Service the witness said he would say that the heavy shooting only happened after the women and children had cleared the field between Springfield Park and Moyard. He could see the British Army on three or four different chimneys of the nearby new Springmartin flats. They wore camouflaged uniforms. No one else was present on these rooftops who did not wear an Army uniform. He said the Loyalist crowd had dispersed. This witness was clear in the statement to say:

"It should be noted that there was no firing when the women and children were crossing the field. However, when the women and children got to safety gunfire just opened up on us. The British soldiers were shooting directly into the field."

[237] Mr McAllister said that he took cover behind the flats and there were medics wearing white hats. He said he took a hat off a wee lad as he was too afraid to go

into the field and he went to help with others. He said he did not know the wounded man in the field at the time. He did know Father Mullan and he did give an account in relation to Father Mullan. He said Father Mullan entered the field from the direction of Springfield Park. He was alone. He said he was closer to the railings near Finlay's Factory and he marked his position when he was pinned to the ground. He said Father Mullan made his way towards the man who had been wounded. Once he saw Father Mullan it was less than a minute later when he saw him being shot. He said he was still close to the man he appeared to have been giving rites to. He could not hear him and would not have heard him make any mention of a nurse. He said no young kids were in the field at this time but a teenager of 13 or 14 years was in the field when shots were fired. He came from Springfield Park and was close to Finlay's Factory and the witness said he helped him to his own home at 69 Moyard Crescent. He said he did not see any civilian with a weapon that day. He said that he and his neighbour, Gerry Haughey, took the body of Father Mullan to Moyard Community Centre and four of them then took the body of Francis Quinn from the Community Centre past the Henry Taggart Hall home to Ballymurphy.

[238] The statement of Nuala McAllister referred to an interview that occurred with her and her husband undertaken by Mr Paul Mahon in 1999. She said that there had been a mix-up of the recollections with those of her husband in that interview which is instructive in terms generally of the reliability of these interview notes. She said in her statement to the Coroners Service which is dated 22 January 2019 that she was awakened around 4.00am by a humming noise and loud vibrations that day. She heard screaming and dogs barking and it was a frightening environment. She said they were hemmed in, the estate was blocked off by the British Army. She said they could hear drums and jeering from Springmartin and they knew they were Loyalist due to the type of drums being banged. She said everyone was wondering why nobody, police or Army chased them. She said mid-morning around 11.00am her sister Una O'Reilly came over. She lived in the maisonettes and came over to the Green to tell her that Betty's shop had been looted, this was the local Spar-type shop.

She saw Father Mullan trying to intervene and stop the people but they carried on. She said she did not see him getting punched in relation to this incident as she had said to Paul Mahon in 1999 and she corrected that account when read to her.

[239] She said that due to the number of Protestant families leaving Moyard there were a number of empty flats. She knew the maisonette at the top of the block facing the shops was empty and she noticed the door was open. She said both Mary Haughey and herself went up. She said there may have been a couple of other women with them around 7.00pm. She said the maisonette's back window allowed them to see right into Springfield Park and past into Springmartin. So they had good visibility. From this vantage point the witness said:

"I saw a police jeep go up Springmartin Road. I presume it came from Springfield Road but could not see this. The jeep did not stop and I don't know what its purpose was. I never saw anyone get out or in of this vehicle; it did not stop and I did not have any interaction with any of the crowd."

[240] Ms McAllister said that at this precise time the crowd surged forward and began to come over the railings at the back of Springfield Park. She saw that they were screaming, and there was the sound the glass smashing and crashes. She said: "I could see my own people had no weapons. I could not see whether the crowd from Springmartin had any weapons or not." As a result of all of this she said that they left the maisonette and ran to their own homes. She said she never saw any Army at any time. She heard shooting when she got back home but did not see anything and could not describe the shooting or the direction from which it came. She said the next thing she knew was two babies were left at her home aged eight months and two months, their mummies were not far behind them. She said: "it was getting dark when I saw my husband, Tommy McAllister, and others carrying the

priest Father Mullan about 11pm/12am but I cannot be sure of that.” She said she recalled the people carrying him out of the field.

[241] Some other evidence was read in under Rule 17 in relation to the identification of the deceased. Thomas Quinn was Frank Quinn's father. He made a deposition to the original inquest dated 17 February 1972. In that he said that he went to the mortuary on 10 August 1971 and at 12.30pm he identified the body of his son to Detective Sergeant Wilson. Jane McMenamin was Frank Quinn’s mother- in- law. She also made a signed deposition to the original inquest dated 17 February 1972. In that she said she identified the body at Belfast City Morgue at 9.30am on 10 August 1971. Father Francis Harper made a deposition to the original inquest of Father Mullan which is dated 24 February 1972. In that he said he went with Father Patrick Murphy and Father Gerard Coll to the mortuary at Laganbank Road, Belfast at noon on 10 August 1971 and saw the body of Father Hugh Mullan.

iv. Other witnesses in relation to alleged UVF/IRA activity

[242] I also heard oral evidence from a witness who was anonymised as C3. The context of this evidence is set out in his statement to the Coroners Service which is dated 8 March 2019. In it he said:

“About three years ago I was at a friend’s birthday party and got talking to someone else about the troubles. He mentioned the gun battle at Springmartin when a priest and a gunman were shot dead. This guy also told me that the BBC news the next day had stated they had identified a gunman. I understood that he had actually heard a soldier say he had positively identified a gunman before shooting just as I had.”

[243] In his statement C3 said that what the person told him was exactly how he remembered it. He said he did not wish to name the person and he did not wish to come forward himself. He said this recollection simply reinforced what he remembered and gave him the confidence and strength to come forward. He said that in 1971 he was 16 years of age and lived locally in the relevant area of Springmartin Road and Springfield Park, in the Loyalist community. He said he could hear shooting in his home around 5.30/6.00pm and he left his house to go and see what was happening. He said it took him less than five minutes to get there. It sounded like continuous shooting. He said he went towards the top end of Springmartin near the bus terminal and he could see Finlay's field and Moyard flats from there. He said it appeared that shots were being fired from four separate positions: the 'Prods' at Springmartin, the Army at Springmartin, Moyard and Ballymurphy.

[244] C3 said the British Army was positioned on the Springfield Park side of Springmartin Road just down from the bus terminus and sporadically positioned until the junction. There was a Ferret scout car at the top end with four to six soldiers outside it from the Parachute Regiment who were wearing red berets. He said he saw two men, one with a rifle, on the Springmartin flats. He was lying in the grass at the time. He said they went down behind the flats which lined the front of the road. He said he could see the rifle being carried but not being used and it was a .303 type weapon with a long wooden handle. He said the men were definitely loyalists and had woolly faces (balaclava). He also said he saw eight gunmen walking from Finlay's Factory/Moyard. All eight were armed with long arms. They wore civilian clothes and their faces were not covered. He said he could see these eight men past the gable end of Moyard flats and the maisonettes. He said the men were running across the field in a hunkered position in single file behind each other with a weapon in their hand running towards some foliage such as hedges or trees maybe for cover. He said seven of them got to the foliage and the last one was shot by the Army. He said he did not see where on the body he was shot, he just said he saw him go down. He said just before the man was shot there was continuous firing from Moyard and

Springmartin, the 'Prods' were shooting from the Springmartin side and he saw flashes coming from the position at the flats.

[245] C3 said the Loyalists were separate from the Army. He said a crowd appeared in the field including a priest, women and children, the crowd and the priest approached the injured man. He said that as the priest lifted the rifle from the gunman he heard a soldier say, "I have identified a gunman and fire a shot at him." The soldiers were within ear shot and were shouting, he said, "I think the soldier who shot the priest was an officer as I recall Pips on his shoulder. There was that much gunfire I am not able to say how many times both men were fired upon or indeed shot." He said however he was certain that only two shots were fired from the Army who were positioned in and around the Ferret scout car.

[246] He said that he had been asked if the Loyalist gunmen could have killed the priest as there was so much gunfire. In reply he said: "I do not believe this was the case as I heard the Army identify him as a gunman and then shoot." It is possible that the Loyalists or Army had shot the initial gunman. That is the extent of this evidence, however in a further statement upon my request C3 did provide the nickname of the person he met at the party some three to four years ago. He said "I heard on the grapevine that this person may be deceased and I cannot be sure." Subsequently, investigations were made but this person could not be traced.

[247] The other evidence in relation to Loyalist activity on the day in question in relation to Incident 1 comes from Witness X whose evidence I will also deal with in the context of Incident 2. Witness X is in a position of being an interlocutor for Loyalist veterans. He did not give oral evidence in this case given that he required to be shielded from lawyers as well as families. It is therefore unfortunate that I did not have a first-hand account from him, however an agreed summary of his evidence and selected extracts were read in on 22 October 2019 to the inquest along with other documentation about UVF activity.

[248] The process was adopted after submissions from the parties which I considered and ruled upon. The MoD required this evidence to be called in person. The Next of Kin (“NOK”) submitted that I should exclude this evidence altogether. I did not consider it appropriate to compel this witness who was giving evidence second-hand and who had no direct knowledge of events. However, I considered that I should receive the written evidence in some way and so through a collaborative process between counsel an agreed summary was read in. I have therefore considered this evidence as part of the overall picture as follows.

[249] In his formal statement of 26 May 2018, X said that his role involved liaising with ex-Ulster Volunteer Force (UVF) combatants in the transformation from conflict to peace. He said he had worked with veterans to assist on other legacy cases and as the inquest into the Ballymurphy deaths approached there had been a flurry of media articles which prompted the veterans to put their story. He refers to veterans as the source of information supplied to him. He said there were a number of different sources, everything was relayed to him verbally, he made no record of same and he was not able to supply any further information in relation to it. He said in his statement he was being asked if he had sought to test any of the information and he had not viewed that as part of his role. The rationale for making the statement was:

“The veterans are adamant that they want the truth to be told and to correct other versions of what occurred. It is important to state that they do not wish to add to the hurt or anguish already suffered by the families.”

[250] The thrust of the information given to this witness is that a number of UVF ASUs (Active Service Units) took part in a gun battle over a three-day period from 9 to 11 August 1971. It appears that the UVF became aware of armed Republican activity on 9 August 1971 following the introduction of internment. In answer to questions set by the Coroners Service, Witness X said through his solicitor in answer to Question 7:

“Protestant areas were attacked by republicans. UVF ASUs were engaged in gun battles with the IRA in other areas of Belfast such as Ardoyne. UVF volunteers became aware of hand to hand fighting and stone throwing in the Springmartin and Springfield Road areas which had then escalated into IRA gunmen shooting into Springmartin. Volunteers who lived in the Springmartin area requested assistance from UVF leadership for additional volunteers to be sent to defend the area from attack.”

[251] In answer to Question 8, which was “How many Republicans were reported by UVF members to be present in the vicinity and who made the sightings?” the following answer was given:

“The veterans cannot be exact as to the number of IRA/Republican gunmen present throughout this gun battle as gunmen appeared, disappeared and then reappeared throughout the period. Veterans recall one republican gunman being apprehended by the army in the Springfield Park area. Veterans also recall IRA gunmen coming (sic) an alleyway in Springfield Park (the mucky lane) close to a house that was occupied. It was the veterans’ belief at the time that the man in the house was a member of the republican movement and had been billeting these armed IRA/republican gunmen. Veterans now accept that this may not have been the case, but maintained that the IRA and other republican gunmen used the mucky lane beside this house as a shortcut to get from one part of Springfield Park to another to enable them to attack Springmartin.”

[252] In terms of the further questions put, Witness X confirmed that the IRA fired shots from Springfield Park, Moyard and Springfield Road. The heaviest IRA gunfire came from Moyard. He said that no UVF volunteers were injured. In relation to the point made that there was a sniper and a spotter in place the answer given to Question 12 was that Volunteer West (who was the sniper) and his spotter remained in the flats (Springmartin) from the afternoon of 9 August until nightfall. He said veterans could not be certain as to the particular firing points taken up by Volunteer West and his spotter on 10-11 August. He said other volunteers were in place for the duration of the three- day battle.

[253] Question 13 was this: "Witness X has stated that the sniper fired towards targets in Moyard, Ballymurphy and the Springfield Road. Can further details be provided with respect to (a) the events taking place within those three locations at the time shots were fired, (b) whether any persons were hit by that gunfire; and (c) whether it was apparent that any person was killed or injured as a result of that gunfire?" In answer the veterans said:

"(a) There was IRA gunfire directed at Springmartin and republicans were rioting when Volunteer Tommy West shot with the Mauser gun.

(b) Yes, people were hit by their gunfire;

(c) Yes, it was believed by Volunteer West and the spotter that people were hit by the gunfire and probably killed."

[254] Question 19 was: "Are the former UVF members able to say which deaths the sniper was responsible for?" The answer given was this:

“Volunteer West confirmed hits in the field between Moyard and Springfield Park and also on the Springfield Road close to the Henry Taggart Memorial Hall. The identity of the deceased was not known to either Volunteer West or his spotter.”

[255] In relation to the weapon used, the Coroners Service put the following question:

“20. Witness X has stated that the Mauser rifle used by the sniper was modified by a professional gunsmith by the addition of a Parker Hale battle sight and so as it could fire 7.62 calibre rounds. He has stated this modification was made to the rifle prior to its purchase from J Braddell & Sons, Belfast, in 1971 the modification for the purpose firing 7.62 calibre rounds resulted in a shortening of the barrel and the removal of the wood around the barrel. Can it be confirmed by former members of the UVF that these modifications were in fact made to the weapon and can details of any other modifications made be provided? What is the identity of the person who made those modifications and when and where was this work carried out?”

The answer given to this was:

“The veterans confirm that the Mauser was modified to fire 7.62 rounds, a Parker Hale battle sight was fitted to it and the barrel of the weapon was shortened. These modifications were made to the Mauser prior to its purchase by the UVF. The veterans do not know the

identity of the gunsmith who carried out the modifications. There was no other modifications made to the Mauser by the UVF.”

[256] In relation to further material which appeared in the press, Witness X denied the press reports from the Sunday World on 13 May 2018 and, in particular, he said that Trevor King who was named by the Irish News on 4 May 2018 was not involved in any way in the events of 9-11 August 1971. In relation to the ITV news report of 4 May 2018 which reported that the weapon used by the sniper can be ballistically linked to certain shootings at Ballymurphy the answer given, through the solicitor, was that the veterans were absolutely sure that the Mauser was used by Volunteer West. The ballistics testing of the weapon and ammunition was a matter for the authorities to undertake. In relation to the RTE news of 2 May 2018, which reported that relatives of the deceased were questioning why (a) the UVF did not acknowledge responsibility for any of the killings at the time they took place and (b) the UVF was only coming forward with the information in 2018 the reply was as follows:

“It was not common practice for the UVF to claim responsibility for each and every incident in which they were involved. In order to give a comprehensive answer to this question, the veterans would need to make reference to the following incidents; the Dublin and Monaghan bombings of 17 May 1974, the McGurk’s Bar bombing of 4 December 1971 and the T-Sport Arms seizure of November 1993. These incidents will give an important explanatory background to the answer that the veterans will give but can and will only be given by the veterans if properly interested status is granted to the interlocutor. The veterans are coming forward now for a number of reasons.

Firstly, the veterans formed the view that they wanted to set the record straight regarding the grave events of 9-11 August 1971 and to show that the UVF were acting in a defensive way to protect the Protestant/loyalist community of Springmartin from attack by the IRA and republican rioters. They acted largely with the support of the population of Springmartin.

Secondly, in January 2018 the Coroners Service put out an appeal for witnesses to come forward who had any information regarding the events of 9-11 August 1971.”

[257] In addition to this evidence in relation to alleged UVF activity, I have already heard some evidence in relation to alleged IRA activity in the area from a variety of witnesses. In addition, Mr Gerry Adams also attended and gave evidence before this inquest on 8 May 2019. He did not make a statement of events at the time but he recounted how he was in the area on the day in question. It is, of course, correct as MoD submissions stress that Mr Adams was not a witness to any of the events with which I am concerned. This means that his evidence is of limited value.

[258] Mr Adams was however asked to explain his position on IRA activity on the day in question and whether or not he was a member of the IRA. I deal with these matters in Incident 2. For the purposes of Incident 1 Mr Adams gave very limited evidence. However, I do note that he said that he saw two masked men appear on the day in question in relation to the shooting of Eddie Butler, which was in the field.

[259] In relation to IRA activity Mr Pdraig Yeates also gave evidence on 10 September 2019 primarily due to a pamphlet he had written on 8 August 1971 entitled ‘The Battle of Belfast.’ I deal with this also in relation to Incident 2, but one limb of this evidence which was drawn from his experience with a radio station on

the day in question was that he said there was an awareness of the UVF threat to the Catholic community in this area.

[260] He said he went to a house with an acquaintance to look for a gun to defend himself from the UVF but when no weapons were forthcoming he went to the NICRA office to get some other form of help. All he could say was that he heard gunfire from around 8.00pm which he believed was coming from Springmartin. He also candidly said that he could not be fully sure of the accuracy of events he reported on given the nature of what he was told being hearsay and the fact that he was writing a pamphlet which he openly accepted was for propaganda purposes.

IX: EVIDENCE FROM RUC WITNESSES

[261] I now turn to the evidence given both in written and oral format by serving RUC officers on the day in question in relation to the events which concern Incident 1. The first of these witnesses is Mr John Jackson who very helpfully attended to give oral evidence to the inquest on 29 April 2019. Mr Jackson gave evidence on the basis of the depositions that he made at the time and he presented in a very straightforward way as he did not add or embellish what he had said at the time in his depositions.

[262] There are a few different versions of these depositions but they all touch on the events relating to Father Mullan's death and the witness could recall completing the deposition although he said he did not attend the inquest or give evidence. He said he obviously did not have as full a recollection now and so he relied on his statements at the time. He said those statements were a full account of events. The deposition stated that the witness was a Constable of the Royal Ulster Constabulary at the relevant time stationed at Andersonstown. It stated that he remembered Monday 9 August 1971. At 4.30pm he went to Springmartin estate where he performed duty with Constable McGookin. He said at the same time there were four constables from Springmartin Road detailed to perform duty in the estate. He said

most of the police were in uniform trousers with civilian coats. He said he was in civilian clothes. He said when he arrived in the estate there was a small crowd, mostly youths and children, standing at the wire fence on Springmartin Road overlooking the Taggart Memorial Hall, where a large crowd were rioting and attacking the Hall.

[263] Constable Jackson said that the military were using the water cannon to control the rioters and several barricades had been erected on the Springfield Road. He said at about 8.00pm the number of people on the Springmartin Road grew to about 300 in number. A number of this crowd were families moving into empty flats on the Springmartin Road. He said as darkness fell the rioters gathered in groups behind the barricades and some small groups could be seen moving about in the Moyard estate. He said at about 8.15pm someone from the Ballygomartin Road end of Springmartin Road shouted "the Fenians are attacking the Springfield Park." He said he was some way from Springfield Park and he did not see if there was any attack. The crowd on Springmartin Road ran from the wire fence in the direction of Springfield Park and attacked the houses with missiles.

[264] He said the crowd that attacked the Springfield Park numbered about 200 and they were uncontrollable. He said when this attack started he asked for assistance on his pocket phone and a few seconds later two military Ferret scout cars arrived on the Springmartin Road and they were informed of the situation. He said more military had to be summoned. He said at this time he saw a number of youths from Springmartin climb the fence into Springfield Park and then he heard some of the crowd shouting that a youth had been shot. He said he did not see the injured youth. He said the military arrived in large numbers at 8.30pm and as they entered Springfield Park from Springmartin Road a number of shots rang out. He said the military detained a man in Springfield Park and brought him to Springmartin Road. They had difficulty in getting the prisoner into an Army vehicle as some of the crowd wanted to attack the prisoner. He said the military fired three shots into the air, this dispersed the crowd and the prisoner was removed in an Army vehicle. He said at

this stage a number of shots came from the Moyard direction and the military returned fire. Most of the crowd in Springmartin Road took cover at the rear of the houses.

[265] Constable Jackson said at about 8.40pm a heavy gun battle, lasting until 9.50pm, took place between military and unknown civilians. He said at least 500 shots were fired. He said during this time he took cover behind the houses and he did not know the identity of the military who they were shooting at. He said from 9.50pm onwards sniping between unknown civilians and military went on. At this time he was in the Black Mountain Primary School and he could only hear the shots in the distance. He said he left Springmartin at 11.15pm and returned to Tennent Street. He said during his turn of duty he did not see any gunmen in Springmartin estate nor did he see any person injured by gunfire.

[266] The evidence of a civilian Mr McCaffrey was put to this witness that over the course of the day he saw two RUC men laughing and joking with the crowd who were attacking Springfield Park. This was denied by the witness. He denied that the RUC watched and did nothing. He also accepted that the Springmartin area was elevated over Springfield Park.

[267] A fellow RUC officer, Mr Rolf Crawford McGookin, also gave evidence to me at this inquest. He had also made depositions at the time and he agreed with the accuracy of those. He said his memory of 9 August 1971 was now vague and he could only go by the deposition. He did not give evidence before the original inquest. This witness recalled being there at the time with Constable Jackson. He thought that he might have been in uniform but he could not be sure. Mr McGookin also denied the allegation made by Mr McCaffrey and put by the next of kin counsel that the RUC stood back and did nothing whilst the Springfield Park residents were attacked by the residents of Springmartin. The deposition that was made at the time in 1972 largely coincides with Constable Jackson's. This witness also confirmed that sniping between unknown civilians and military went on for some hours and

military ordered all persons in Springmartin to leave the area and go to their homes. He said police assisted in removing this crowd and police then remained in the background.

[268] A number of other RUC witness statements were read into evidence and admitted under Rule 17. The other evidence came from a Constable Eric Aiken who said he was a Constable in the Royal Ulster Constabulary attached to Springfield Road, Belfast. He said that on Monday 9 August 1971 at approximately 8.30pm while on duty at Dunboyne Park with Constable Megaw, a woman reported that two factions were throwing stones and bottles at each other, one in Springfield Park and the other in Springmartin Road. He said Constable Megaw and himself proceeded in the direction of Springmartin coming out on to the Springmartin Road and then three military Land Rovers and a lorry passed them going to the incident. He said Constable Megaw and himself then returned to Dunboyne Park.

[269] He said a short time later there was a single shot, which sounded like a shotgun, then all was quiet for a considerable time, and as it got dark shooting started from the Ballymurphy/New Barnsley and Moyard areas. He said at this time soldiers on the Springmartin Road returned the fire along with those stationed in the Taggart Hall. He said this went on to approximately 10.15pm. There were a number of shots fired at intervals. He finished by saying at one time there were bullets striking the houses in Springmartin Road. He left the Springmartin Road at approximately 3.00am.

[270] A further statement was given by Constable Henry Bennett of Springfield Road RUC Station, Belfast. He stated that on Monday 9 August 1971 at about 4.14pm he was detailed with a party of men to do duty at Springmartin. He said several people had gathered about the front of the Springmartin estate overlooking Springfield Park and Moyard but things were comparatively quiet. He said from about 7.00pm onwards the crowd increased considerably and several strangers were

obvious in their movements through the crowd moving in twos and threes throughout the local crowd. He said that young children and youths had been throwing stones into Springfield Park from earlier in the afternoon and stones had been thrown back from that direction as well. He said Constable R Thompson and himself had moved these children on several occasions and at one stage they moved the crowd back from the wire fencing at the Special Care School but almost immediately the crowd pushed back. He said he left the scene to see if he could contact any of the local committees but none of these men could be located. When he returned, the stone throwing had increased and he said he saw a crowd at the back of Springfield Park, roughly about 80 in number, moving towards Springmartin.

[271] He said behind this group in the field coming from Moyard, "I saw about 12 men, well apart, running in a crouched position. These men appeared to be carrying something in their hands, I assumed them to be armed." He said he contacted communications by RT and informed them of a situation and requested immediate military presence and was informed that the Army was on its way. He said he telephoned to give a more detailed report and when he finished doing this he was making his way back up the hill and was informed that a young boy from Springmartin had been shot in the back with a shotgun. He said this was later confirmed by other residents who said the youth had been taken to hospital by ambulance. He said at this time a larger grey furniture- type van drove up the Springmartin Road from the Springfield Road direction and it was packed with men and youths standing. It stopped at the top of the hill and the passengers got out and mingled with the crowd and there was a barrage of stones flying to and from Springfield Park. He said several shots were fired in the near vicinity but he could not say whether they came from Springfield Park direction or not. He said, "I certainly did not see anyone in Springmartin fire a weapon, but several people had gone behind the partly constructed flats at this point and were not in my view."

[272] This witness then said that a detachment of the Parachute Regiment arrived and immediately took up position on the roadway. Immediately the firing from

Moyard became more intense and the military returned fire from lying positions adjacent to the flats under construction. He said at one stage he saw a person wearing a white shirt fire from a field in the Moyard direction. Later he said he saw him run and fall, presumably shot, and another person, dressed in black, stooped beside him. He said the second person also fell and he assumed he too was shot. From a top end flat in Moyard, he said he could see puffs of smoke occasionally coming out of a window. He said he informed a paratrooper of this and that he took up position to cover this spot. The witness then said he moved back to a safer position and eventually moved into Black Mountain Primary School. The firing continued in varying degrees of intensity and bullets could be heard whizzing overhead, coming from Moyard, including an occasional tracer bullet after dark. He said he was relieved at approximately 2.30am and left the area to return to Tennent Street Police Station.

[273] A further deposition was read from Rex Thompson, a Constable in the Royal Ulster Constabulary stationed at Springfield Road. It is evident that this witness did give evidence at the inquest of Father Hugh Mullan because there is a recount of oral evidence, which has been transcribed as far as possible, written into the deposition by the coroner. This witness in the deposition said he was a constable and at 1830 hours on 9 August he was detailed for duty at the Springmartin estate. He said he found a crowd there when he arrived and the crowd was warned many times by Constable Bennett of the situation and himself to keep clear of the fence, but he said they took little heed of their advice.

[274] On the estimation of Mr Thompson the crowd had swelled to about 400 strong and then moved to the area adjacent to the bus terminus on the Springmartin Road. He said the Army was in attendance at this time in the form of two Ferret scout cars. He said at about 2055 hours he spotted a few young boys creeping towards the area of Springfield Park from the Moyard estate and a few minutes later stones and bottles rained into the Springmartin Road from the Springfield Park area. He said the Protestant crowd retaliated with the same missiles and this battle continued for

about five minutes. He said he approached one of the Ferret commanders and asked for Army cover and he called for assistance on his radio. At about this time the Catholic crowd of about 100 in strength suddenly withdrew from the Springfield Park area. He said he again saw the Ferret commander and told him to hurry his troops up as the Protestant crowd had followed into the Springfield Park area. He said he saw some of the Protestant crowd running back towards his area and a couple of people ran up to him and told him that a young boy had been shot by the Catholic crowd and he established that an ambulance had been called for this person.

[275] Constable Thompson said at about this time, ground troops of the Second Battalion Parachute Regiment and the Second Queen's Regiment arrived and positioned themselves at various points. He said he was behind the Ferret scout car and there was heavy gunfire coming from the Moyard area, in to the Springmartin estate. He then said:

"I suddenly saw several people pointing towards a field in the Moyard area and heard gunfire from this field. I looked across towards where they were pointing, about 600 yards away, I saw a man in a white shirt crouching behind three tree stumps, left of centre of the field, and I heard gunfire from this position. At this point I was standing directly behind a rifleman of the Second Battalion Parachute Regiment and there were another three riflemen within my site. All four opened fire, and the one directly in front of me had his rifle aimed towards the area of the three tree stumps. The man in the white shirt suddenly appeared to fall forward on to the ground, but a few seconds later he got up and started firing again. The paratrooper in front of me fired three shots and the man fell forward, and firing ceased from this position. At this point a figure in dark clothes ran across the field from

the left, and appeared to be lifting the man in the white shirt, when the paratroopers opened fire again, and as they were firing a third person ran out and he either dived for the ground or fell. Firing continued from the Moyard area and the paratroopers at one time opened fire on a window in a block of flats from where I heard gunfire.”

[276] The witness finished by saying that at no time did he recognise any of the three men as a priest and at no time did he see a white cloth being waved. He said the Army in his view did not have any telescopic sights or binoculars during this incident. In answer to some questions which were put to this witness at the original deposition the following transcript, which is not entirely complete but transcribed as best we can from handwriting, reads as follows:

“Mr Hutton (Counsel): The youth who was shot was ... and he was shot from the Springfield Park area. I could not see the Moyard flats at first but heard shooting coming from that area.

Mr Cahill (Counsel): I lost my notebook in an explosion in the Springfield Road explosion. I did not make notes at the time but made a rough statement. This was ... after reading the papers. I feel that ... the soldiers said about Father Mullan but they did not know what they were doing. I do not know of anyone other than the youth having been shot that night. The crowd did not disperse in Springmartin when requested.

Mr Hutton (Counsel): The soldiers fired at this man in the white shirt because the firing seemed to be coming from

them. The crowd in Springmartin was behind the flats though some of them would have been ... to Springfield Park. We could hear shots firing overhead.”

[277] There is also a deposition of Constable David Carson Megaw who was attached to Springfield Road and who said that he was on duty at approximately 8.30pm at Dunboyne estate with Constable Eric Aiken. He said a young woman reported to them that crowds were throwing stones and he with Constable Aiken proceeded to the Springmartin Road. He said they came down the road near the telephone kiosk and saw stones and bottles being thrown from Springfield Park and Springmartin Road. He said two Army Ferret scout cars came on the Springfield Park. He said as Constable Aiken and himself were returning to Dunboyne Park he saw three Army Land Rovers and an Army lorry going to an incident. He said Constable Aiken and himself returned to Dunboyne Park and a short time later they heard a shot and then everything went quiet for some time. As it got dark, shots were fired which to the best of his knowledge came from New Barnsley/Ballymurphy area. He said this time the fire was returned by military in Springmartin and Henry Taggart Hall. The gunfire he said lasted until 10.15pm after which there were a few shots fired at intervals. He said Constable Aiken and himself left the Springmartin area at 3.00am approximately.

X. THE MILITARY EVIDENCE

i. General overview

[278] The military evidence in this case is disparate and it has been hard to manage in that it involves a number of different regiments. These core regiments are: 2 Para Support Company which had tactical control of the area; 3 Queens B Company which came into the area to assist; and 2 Para B Company which was at the Vere Foster School/Henry Taggart Hall.

[279] The new evidence also involves some different source material, principally the logs and also a 2 Para operations report which I have been referred to. I have had the benefit of some evidence from relevant military witnesses although it is fair to say that other important military witnesses remain untraced. Some have also been unable to attend this inquest due to ill health. Some are deceased. In addition to the witnesses that have come forward and are identifiable, there are ciphered statements from the soldiers who were interviewed for the inquest into Father Mullan and Mr Quinn's deaths. These are not entirely satisfactory due to the confusion about the inclusion of 2 Queen's A Company soldiers within those inquests. As will be apparent from this part of my determination, it seems to me that these military witnesses were not relevant to the shootings of Father Mullan and Mr Quinn due to the fact that they were not deployed in the area until after midnight on the night in question.

[280] I also examined the evidence in relation to the remaining military sections, namely 2 Queen's A Company, who I have already said gave some evidence, but were not actually, it seems to me, in the area at the relevant time. The company which had tactical control for this area was clearly 2 Para Support Company and I will deal with their evidence although unfortunately the Officer Commanding, M12, was unfit to give evidence and so all I had was a statement from that officer. There is also an issue in relation to M1341, who is thought to be Soldier U, who was unfit to give evidence. The issue with 2 Para Support Company is that they fall into three platoons - machine gun platoon, anti-tank platoon and mortar platoon - and I will try to unravel what each was doing at the relevant time from the evidence I have heard.

[281] The second relevant battalion that was in the area is clearly 3 Queen's B Company. Soldiers present in Springmartin at the time were comprised it seems of both 2 Para Support Company (ATP) - that is anti-tank platoon - because from the records at about 2045 hours 2 Para Support Company ATP were deployed to Springmartin in Ferret scout cars. Also 3 Queen's B Company were deployed. The

Springmartin area and the Springmartin flats was in the tactical area of responsibility for 2 Para Support Company. The records state that 13.50 on 9 August 1971 B Company 3 Queen's (Call Sign Y2) came under the command of 2 Para Support Company and were deployed in the Springmartin area. This is contained in the 2 Para Watchkeeper's log, of 9 August, serial 112.

[282] In relation to 3 Queen's B Company I have heard limited evidence from witnesses which I will deal with, namely that of M68, M579, M575. As I have already said, it is highly significant that no RMP statements were taken at the time in relation to soldiers from that company. In that regard the statement of M26 who was the investigator taking statements will also become relevant.

[283] The third Company which is relevant is 2 Para B Company. They were not in Springmartin it is clear. Their base was on the Springfield Road. But they were stationed at the Vere Foster School and Henry Taggart Hall and essentially the question is whether soldiers on the roof of the school were responsible for shooting the two deceased. The evidence of the Officer in Command of this Company, namely M45 whom I heard in person, will be relevant to this question.

[284] The 2 Para Support Company base was in Paisley Park and so it is separate from the 2 Para B Company who were based at Vere Foster School and Henry Taggart Hall although the entire battalion of 2 Para were based at the Springfield Road.

[285] I am going to deal with 2 Para B Company first, as they were the soldiers at Vere Foster School and Henry Taggart Hall and so they are obviously detached from the Springmartin flats area, but they gave some relevant evidence about what was happening at the time and there is a question mark about whether or not these soldiers could actually fire on the field, and also issues of crossfire that arose in relation to what they were shooting at in and around Moyard.

ii. 2 Para B Company

[286] The most obvious starting place is the oral evidence and written evidence that I heard from the Officer in Command of this regiment, namely M45. M45 gave evidence on 13 March 2019 and he also made a detailed written witness statement for the benefit of the Coroner's Investigator dated September 2018. Attached to that is a deposition from the time from the Royal Military Police, which is designated 'statement of Soldier C.' It is dated 15 August 1971 and was witnessed at Vere Foster School. There is a file note from an interview with HET which took place on 5 October 2001. There was also a considerable amount of additional material attached to the witness statement by way of logs and mapping. Some additional evidence was given by M45 utilising various contemporary photographs. M45 also filed a second witness statement of 20 December 2018 dealing with certain matters that were put to him, principally issues relating to the Yellow Card/warnings. Also other issues from the Watchkeeper's log, the post tour report and BBC footage were put to the witness which were explained to him which includes an interview with General Howlett who was a lieutenant colonel at the time in which he spoke about an incident that took place in Belfast in July 1971. The video shows the Henry Taggart Hall and a sangar that was rebuilt in the days following 9 August 1971.

[287] M45 was 86 years of age by the time he gave evidence to me. He presented in a calm manner and was willing on some occasions to accept that he may have made some errors in terms of interpretation of events due to the passage of time. It is fair to say that he was questioned over a lengthy period of time about various matters some of which touch on Incident 2 rather than this incident. In relation to Incident 1 he was really being asked about two major points. Firstly, whether or not soldiers on the roof of Vere Foster School could have fired at the waste ground where Father Mullan and Mr Quinn were shot. Secondly, whether or not the deceased could have been shot in crossfire between soldiers in Springmartin and his soldiers

due to a lack of communication between the two companies. In addition, M45 gave quite substantial evidence about planning and control matters which I will turn to.

[288] The first documentary evidence is from the time, and M45 accepted that he was Soldier C in the Mullan inquest and that he gave the statement to M26 on 15 August 1971. In that, he said that he was stationed at Vere Foster School on the day in question and that at 4.30am his company took part in an internment operation in Ballymurphy and the Turf Lodge areas of Belfast. He said that during this his company detained 18 male persons who were brought into Henry Taggart Hall. He then talked about seeing a crowd of persons outside Henry Taggart Hall during the day, which is a matter relevant to Incident 2. The statement then continued that at about 1800 hours the crowd dispersed and he returned to Vere Foster School. At 2103 hours whilst in the school he said he heard a heavy concentration of fire coming from the direction of the Taggart Memorial Hall and it was reported that the Hall was under attack from a number of gunmen from the area of open ground on the north side of Divismore Park. It was also reported that his men were engaging with the gunmen and that this lasted 10-15 minutes. Again, this really relates to Incident 2.

[289] However, the statement went on to say that during the latter part of this attack the Vere Foster School came under fire from one of the flats at No. 21 Moyard Park where two gunmen were firing, one an automatic weapon and one a rifle. At the same time a rifle was also being fired from the same block of flats in the direction of Springmartin. The witness said fire at the school was also coming from Springmartin and the Moyard Parade area. He said that he ordered three men on the school roof to engage the gunmen at 21 Moyard Park. He said a short gun battle ensued between his men and the gunmen and after a short time the latter ceased firing. He said that during this exchange he could hear shots from the area of Springmartin, some of which were directed towards the school and others he believed from Moyard. He said although firing from automatic weapons could be heard from the Ballymurphy area all shooting directed at his position ceased at 2146

hours until 2237 hours when fire from a .22 weapon and a high velocity weapon was directed at the Vere Foster School from Moyard Parade. As a result of this attack one soldier was slightly wounded in the right upper arm. He said five shots were heard at 2323 hours but were not directed at this location and sporadic firing continued until the early hours of the morning when all firing ceased.

[290] He said considerable movement was observed in the whole area from 0200 hours until 0600 hours and at 0555 hours the body of a man was seen lying on the balcony of 21 Moyard Park. Two unknown civilians came to the school gate to report that three bodies, including that of a friend, were lying in houses in Moyard Parade. He said this was at 0600 and a civilian ambulance arrived at 0655 hours and collected a body from 38 and from 46 Moyard Parade. The witness in this statement also said that during the morning of 10 August Sergeant M26 SIB arrived and wished to view from the school roof the position where the priest was killed (marked with a black flag). The priest had been killed on the waste ground behind and between Nos. 80 and 82 Moyard Park. It was apparent that the sentries were unable to see or shoot into that area as in one case the view was obstructed by trees and in the other by a block of flats. The only position in the whole school from which the black flag could be seen was some three yards north east of the southern exit from the school. At no time was a soldier on duty at this door as it was totally unnecessary.

[291] When he was interviewed by the HET in 2011 the witness gave a comprehensive view of his military history which is contained in his statements that I will come to. He said one part of his statement to HET has been stressed, namely on the second page when he was talking about the soldiers on the roof of the Vere Foster School. He said whilst at the school he had gone on to the roof where at least three of the soldiers were positioned. They were all armed with SLRs, none of them had a sniper's rifle. He was unable to remember exactly where the soldiers were positioned. He remembered at one stage coming under fire from the direction of Springmartin. He now believed that those shots could have been from their own

troops who were positioned there. The witness then talked about the fire from 21 Moyard Park in keeping with his original statement.

[292] In relation to the deaths of Father Mullan and Francis Quinn the HET report records as follows:

“He was unable to name the soldiers responsible for the shooting of the people killed that night. He had no knowledge of the death of Francis Quinn. He did not know who was responsible for shooting Father Mullan but was adamant that the troops on the roof of the Vere Foster School would not have been able to hit anyone on the waste ground where he was killed. He said that if soldiers were responsible for Father Mullan’s death then the shots would most likely have come from soldiers positioned on Springmartin who were under the command of the Major in Support Company 2nd Battalion of the Parachute Regiment.

He was unaware that soldiers from the Queen’s Regiment had been supporting the Major that night. He said that the only troops at the Vere Foster School and the Henry Taggart Hall were from B Company Parachute Regiment. No other soldiers came to their location until the following day. No soldiers from 1st Battalion of the Parachute Regiment were in Ballymurphy or immediate area that night.”

[293] In his first statement M45 said that 2 Para were posted to Northern Ireland in around April 1971 until the end of August 1971. He said he was the Major Commanding B Company of 2 Para during this deployment. He said second in

command was Witness M130, the Company Sergeant Major was Witness M151. He said at full strength B Company would have had 150 soldiers, however it never actually had that number and it was more likely a maximum of 120 soldiers. The witness did give a list of persons whom he thought were in B Company at the time and in particular he referred to Witnesses M274 and M174, who was a lance corporal, along with M43, M86, M61 and the medical orderly, who he said was M290.

[294] In his statement at paragraph 12 he also said as was the case for every tour, every soldier was issued with a Yellow Card for Northern Ireland. He said it was difficult now to work out exactly what the Yellow Card was telling them to do but he recalled that it basically said:

- (1) Don't shoot until you are shot at.
- (2) Fire single shots at specific individuals – you cannot sporadically fire.
- (3) Only shoot at petrol bombers, or hand bombers generally, if there is a real danger to life or property.

In this statement he said:

“According to Rules of Engagement, if someone is coming towards you with a nail bomb then I imagine you could shoot him, though that never happened. Further, in Ballymurphy we never shot at anybody who was just throwing petrol bombs, despite them hitting the front of a military vehicle.”

[295] He also confirmed in this statement that each company had a sniper rifle, “I think it was a .303.” He said the sniper rifle was never deployed in B Company during this deployment because it was not zeroed to be used by a particular

individual. A sniper rifle has to be zeroed he said to the person firing it, which can take hours and they did not have that kind of time. He confirmed that B Company's base for the deployment in Belfast was the Vere Foster School and the Henry Taggart Hall, which were to all intents and purposes the same location given their close proximity. He said it was standard military practice to give companies tactical areas of responsibility. Bordering on his company was Support Company of 2 Para which was led by M12. He referred to his area being just north of the dotted line on the relevant map in terms of the tactical area of command and he said that Springmartin was within this area. He also confirmed in his statement that he recalled reading somewhere that a Company from Queen's was assisting Witness M12 but he does not remember anything more about that.

[296] The witness then confirmed in his original statement and the HET report that his company was involved in the internment arrests and obviously witnessed events outside the Henry Taggart Hall, which are pertinent to Incident 2. In relation to this incident he came back to the school he said at around 9.00pm. He said in his statement at this stage he realised that shots were coming from almost everywhere. He said Support Company was on the other side of Moyard flats and he thought shots they were taking may have been coming in their direction. He then referred to the gunman who he saw on the balcony at 21 Moyard Park. A large part of the witness's evidence was taken up by questioning on this and the witness was firm in relation to seeing the gunmen in Moyard Park, stating that these gunmen fired first, agreeing that he gave the orders to fire back, and seeing the body of a gunman the next morning at 5.55am hanging over the balcony.

[297] Whilst the witness was very clear on these matters he could not give anything to this inquest by way of evidence as to the amount of rounds fired. It was put to him that 60 rounds were fired on the basis of other statements provided under cipher to the Mullan inquest. The thrust of the questioning was that if experienced soldiers were firing with highly calibrated weapons they should have been able to shoot these

people without needing to fire 60 rounds and there was evidence from Mr O'Hare and others about a huge amount of damage to Moyard flats.

[298] The witness could not really say very much about this because he said he was not the person firing the shots. In relation to the death of Father Mullan, at paragraph 39 of his first statement he said:

“We did hear very quickly that a Catholic priest had been shot. It was just not possible that anyone from our location could have shot Father Mullan. After Father Mullan was shot, a black flag was put there to determine whether that spot could be seen from the school. We could not see the flag apart from one place just outside the school on the north east corner.”

[299] He confirmed in this statement that there was no one at that position. M45 who was, I should say, questioned over three days from 12-14 March 2019 was also asked about this issue of coming under fire potentially from troops positioned at Springmartin. In answer to some questions he quite candidly said in relation to this issue:

“Well some of them, yes. See I was actually trying to be helpful and they were firing 180° from us, which means, of course, their shots are coming towards us, but they were higher than we were, being on Springmartin, and so their fire would have been plunging fire and so, less likely to come and hit us. But any shot that is fired in our direction we would hear and we would hear very loudly, because again, Springmartin is only about 300 yards away.”

[300] He was pressed on this issue of whether he thought “shots they were taking, may have been coming in our direction.” In relation to the question, the witness said there was a concern that the shooting from Springmartin may, in fact, have come from Support Company or indeed 2 Queen’s. In relation to this issue he said in evidence:

“Yes we spent some time on this – it was – it’s always a possibility – if you are firing 180° inwards, you are going to be firing at each other. Luckily, Springmartin is higher than the Vere Foster School and so, their fire is a plunging fire and should, technically, not hit the Vere Foster School. So, it is possible to do that ... but by the same token any shot that misses the flats and flies over the Vere Foster School, that is going to be like a high velocity round being fired in your area.”

[301] M45 also confirmed in his evidence that it appeared at one stage that an instruction was given to soldiers in Queen’s to stop firing, because they were unfamiliar with the location of the Vere Foster School and there was a concern that they would, in fact, be firing on their own soldiers. This was presented to the witness from the logs and he had not necessarily been fully aware of this issue before but accepted that it was recorded. In addition to M45, in looking at the issue of who was on duty at the school and involved in the shooting incidents, there are other ciphered soldiers who are relevant. Soldier A in the Father Mullan inquest in his ciphered statement stated that he was accompanied by Soldier B in a sandbagged emplacement on the north east corner of the roof of the Vere Foster School. He said he commenced duty at 1900 hours and remained in that position until 2215 hours, during which time he stated that they were continually being shot at by a gunman positioned in the block of flats in Moyard Park. The statement said:

“This particular gunman was armed with an automatic weapon, he position himself in 21 Moyard Park. Owing to my position I was unable to return fire at this gunman although he was shot at by other members of my platoon positioned further down the roof of the school.”

[302] Soldier A in the Frank Quinn inquest recalled the timing of the attack at 2020 hours to 2030 hours when the school came under fire from three points which included the block of flats running in a north/south direction adjacent to Moyard Park. He claimed that the rounds fired from the Moyard Park area came from heavy calibre automatic weapons, possibly a Thompson .45 calibre submachine gun with about 50 rounds in bursts and single shots.

[303] This statement refers to two gunmen and contains the following information:

“I saw muzzle flashes coming from the veranda of the upper maisonette which I believe is No: 21, the fire being directed towards Sentry positions in the school. I fired three aimed rounds of 7.62mm SAA at the men on this veranda, after which the first ceased. As I did so D called to me that there was a man firing from the window on the northern side of the veranda, on the same floor which I believe as part of No. 21. I ordered D to engage the gunman which he did together with E. I have no idea how many rounds were fired by D and E towards this target. After a few seconds of this engagement the firing ceased and no further fire came from this block of flats, in that night, which was about 150 metres from my position.”

[304] In addition, Soldier B in his ciphered statement indicated that from his position, which was alongside Soldier A, he also saw two gunmen. He said in his statement that he came under fire from a block of flats in a north/south direction in Moyard Park. The firing came from the veranda of the upper flat at the southerly end which he now knew to be No. 21. He said on the instruction of A he engaged the gunman with A, firing appropriately 5 rounds at some gun flashes coming from behind a dustbin on the veranda. He said A engaged the same target but he did not know how many rounds he fired. He said the firing from the veranda then ceased. Almost immediately afterwards, D and E engaged a gunman firing from a window next to the veranda which he had fired at. He said he saw gun flashes coming from this window but neither A, nor B himself, fired at this target. After the target had been engaged by D and E the firing ceased.

[305] It was thought that Soldier B may be the witness ciphered M1011. He asked to be excused from giving evidence and produced some medical evidence to that effect. I would have very much preferred to have heard M1011 in relation to this incident. He had legal representation and made various submissions about his medical position. As I explained in my ruling in this case and in others, the purpose of a witness such as this giving evidence is not simply to satisfy the next of kin submissions that he should, but rather to allow the witness to have a chance to give his account. I indicated that I would ask the witness in the first instance to perhaps answer some questions, that I would employ special measures but ultimately through the submissions of counsel I was told that this witness was not fit to engage in any of the suggested mechanisms and he was therefore excused from giving evidence which, as I have said, is unfortunate.

[306] In relation to this issue, Soldier E in the Quinn inquest also gave an account of three gunmen operating from the flat using a submachine gun, a rifle and a pistol. In his statement he said he was positioned in a roof gully about 20 metres north of A's sangar. He indicated that on instructions from A, he and D engaged the gunman located on the flat window, the gunman on the veranda having been silenced by A.

He said he saw this man thrown backwards from his position behind a dustbin after being fired upon from A's position. For the next 20 minutes D and this witness E engaged the gunmen in the flat. E said he fired about 25 rounds of 7.62mm ammunition and that these were all aimed shots. He said while D was firing at a man using a submachine gun, he saw a man thrown backwards into the flat as though he had been hit. He said that after about 20 minutes the firing from the veranda ceased.

[307] E's statement went on to claim that D fired about the same number of shots as he fired and that about midnight whilst in the school hall area, he looked towards the veranda using a starlight telescopic night sight. He said he could see the body of a male person lying on the veranda. He did not see any persons removing the dead or injured persons from the flat in question on the night of 9 or 10 August 1971. The statement of Soldier D in the Mullan inquest also included the following:

"At this time, approximately 2110 hours, the platoon of 2 Queen's Regiment was still deployed forward on the flats towards Springfield Park. I could not see them and therefore sent my Company Sergeant Major to find them and control their fire. The troops with me were engaging gunmen on the third floor of 21 Moyard Park and 13 Moyard Park and two gunmen in the area of the walls and steps immediately east of 78 Moyard Park. Because of the danger of our shots striking the Vere Foster School I ordered all firing to cease."

This soldier is M12 who as I have said was unavailable for this inquest.

[308] Hence, there appears to be two statements from soldiers of B Company 2 Para based at the Vere Foster School/ Henry Taggart Hall that are relevant to this issue. They are Mullan, Soldier B which I have recounted above and which correlates with

Taggart, Soldier P. The Mullan Soldier B is M45 and so he is also the Taggart Soldier P. M45 is therefore a highly material witness.

[309] A large number of other witnesses were called from this regiment many of whom had little to add in terms of them being direct eyewitnesses to the shootings of Mr Quinn and Father Mullan. They were inevitably asked about activity in the area and whether they could identify further soldiers. But overall this was a protracted exercise which in truth did not yield much by way of result in helping me as to how Father Mullan and Francis Quinn were killed. I will recount some of the salient evidence from these witnesses in the following section. However, I am not going to refer to each and every witness in the same detail as in some other areas for the reasons I have given. That is not to say that I have not considered all of the evidence that I have heard. However, there was a considerable amount of repetitive evidence about what the companies were doing in the area at the time, weaponry orders and such like which is of more general assistance rather than allowing me to reach specific conclusions about the evidence of any of these particular individuals.

[310] For instance, Witness M140 provided a statement in relation to involvement at the Vere Foster School. At paragraph 16 he said, "whilst I cannot be sure, I think I was on the Sanger of the roof of the school at some point during 9 August 1971." He said he thinks his shift was with M554. He said, "I imagine I would have been up therefore at least four hours. I cannot remember any events that took place whilst I was in the Sanger. After the shift in the Sanger M554 and I returned inside the school."

[311] It is interesting in paragraph 15 of this statement that the witness said, "from the Sanger you could see the rioters at the front of the base. I have been shown an aerial photograph of waste land which I now produce." He said he did not believe that he would have been able to see the wasteland which was behind the school from the sangar on the rooftop. He said, "we were usually looking in the direction of the flats which were close to the base." Therefore, it appears likely that M140 was in the

north east sangar and unlikely to have been able to see the rioters on the Springfield Road.

[312] M1300 is also of some import given his position in relation to resupply of ammunition. He said in his statement for the Coroners Service that he was tasked with taking ammunition to the soldiers manning the sangar on the roof of Vere Foster School. He said the sangar was on the roof the school at the far end overlooking the nearby flats. He said it was still light though getting dark when he went to the roof of the Vere Foster School travelling unarmed. He said he was walking north along the flat roof when he was fired at from the flats to the east of the base. He said he did not see the person who fired at him, he could just hear bullets. He thought the person had a Thompson submachine gun. He said he immediately dropped flat on the roof and waited and he did not hear any return fire. He said when the firing stopped he continued making his way to the sangar and delivered 50 rounds of ammunition to the sangar. He said he did not ask the soldiers in the sangar if they had fired any shots. He said he gave the ammunition out and left. In keeping with many of the other witnesses from 2 Para B Company this witness was involved in internment arrests and he was able to give evidence about Major M45 being in charge and other members of the various platoons.

[313] In addition to M45 and M1011, as I have said, a considerable amount of witnesses have given evidence in relation to their position at Vere Foster School or the Henry Taggart Hall. Much of this relates to Incident 2 and much of it does not really assist me in relation to Incident 1 however, as I have said, there are a number of witnesses that are worthy of mention. The first is M506 who made a statement for the Coroners Service dated 19 February 2019. He had also been involved in internment arrests and there is a RMP statement in relation to that from the time which was verified by M506. Through his solicitor he filed a second statement dated 10 April 2019.

[314] M506 gave evidence to me over two days on 10 May and 9 September 2019. In this evidence he generally accepted the internment arrest and he accepted that he was billeted at Vere Foster School. He had no recollection of anyone being shot but he did refer to himself being in sangar at the highest point of the school and he referred to this in his evidence by indicating it through various maps and photographs. It must be stressed that M506 said that he had undertaken four tours and never fired save at the firing range. The evidence that he could give in relation to actual firing at the Manse was limited, however he did make some reference to Springmartin and Moyard Park. He also recalled M45 was the major in charge and he could remember M57 and M218/289.

[315] In his statement he came to the time of the evening around 2045 hours when he said he was woken up and rioting was still going on. He said from the school you could look over the roof of Henry Taggart Hall and see Divismore Park, Springfield Park onto the waste ground. He said soldiers were firing rubber bullets and CS gas canisters and he recalled someone saying that they had run out and needed a resupply. He said, "I recall that whoever was firing the CS gas canisters were very accurate on hitting their target and the canisters were landing by the petrol bombers." He said, "as the canisters landed you could hear the loyalists in Springmartin cheering." He said he also remembered seeing a fella with a rubber bullet and he must have had matches in his pockets as he caught fire and people were trying to put the fire out. He said he was positioned on the roof of Vere Foster School on a sangar. His statement recorded:

"I did not fire my weapon at any time and I dispute M138's account of firing 20 rounds himself with other soldiers doing likewise and of standing up to look from the location of the incoming gunfire to return fire. I am unsure who was with me but M138 would have been one of the soldiers in charge of my platoon."

[316] The witness was a private at the time and he referred to the fact that there was a general fear as to what would happen when it got dark and a fear of being potentially overrun. He said in his statement, "around 2115 hours the crowd that was attacking Henry Taggart then turned their attention to the loyalists in Springmartin and set off towards them." In and around 2120 hours he said he recalled seeing two removal- type lorries/Luton vans arrive near the junction of Ballygomartin Road where it T-bones Springmartin Road and the back doors of the lorries opening. He said he saw people getting out of the back of the lorries and within 30 seconds of these people getting out he heard high velocity shooting coming from Springmartin down towards their location. He said the crowd of 30-40 persons who had set off to attack the Loyalists started to run back towards Ballymurphy as they were now under fire. He said he then heard shooting coming from Ballymurphy up towards the Loyalists so there was shooting coming from behind and in front of them. He said that it was only then that the soldiers in Henry Taggart and Vere Foster School started to fire back due to the incoming fire and threat. He stressed in his evidence the soldiers showed a great deal of restraint. He also said:

"I did not actually see any of our guys firing from Sangers on the roof in Vere Foster School but when I had to go to Henry Taggart Hall I saw soldiers standing on benches firing out the broken windows, but I cannot identify any of them as they had their backs to me and we were under attack."

[317] He said he did hear shooting coming from within the Vere Foster Camp whilst he was on the roof but it was not from the area of the roof. He was asked whether he was shot and he said no but a bullet did come through a window narrowly missing him and hitting the wall during that period. He said in his statement that he did not recall seeing any Loyalist or Republicans with weapons but he did hear the sound of various guns being used which he said were not military.

[318] In his second statement M506 did refer to two people falling. He said he could not be sure that they were shot but that they fell in the Manse waste ground on the opposite side of Springfield Road from Springfield Park. He said gunfire was coming from different directions from Ballymurphy but he did not see any gunmen and was going on the sound. He could not see any of the gunmen and he could not say anything more about the shootings in the Manse. He also referred to M45 and said he heard his voice from outside the front of Henry Taggart Hall on a tannoy calling for a ceasefire to pick up the wounded.

[319] It is clear that the sangar that he was occupying on the roof of the school was near to 21 Moyard Park and so some questioning was directed at this issue. This witness, as he said, did not have cause to fire his weapon and he was not aware of any other soldiers on the roof firing nor of any re-supply of weaponry. He was asked, 'Did you see a body hanging over flats in Moyard Park?' and he said he did not.

[320] The HET note from M138 was put to this witness. M138 was not mentally fit to give any statement prior to his death in November 2018. In his HET account, which was recorded in File Note 42, he said that the night was one of heavy gunfire starting around 9.00pm and he was off duty at the time in the Taggart and due to go on patrol at 10.00pm. He was a corporal in 4 Platoon B Company at the time. He said there had been intense incoming fire for a considerable time and he was instructed to take two of his men to the Vere Foster School to provide support to the men stationed in the sangars on the roof. He said he remembered one of the men with him was M506/M175. He said the three men ran whilst under fire to the school via a path, they climbed a wooden ladder fixed to the outside wall of the school to reach the roof and they were being fired at. He said M506 dropped his magazine and spilt his rounds of ammunition on the roof; he started to collect them but was out in the open and so M138 grabbed him and took him to the safety of the sangar. He said the sangar was the one at the front of the school and he said there was a full scale

armed assault by many gunmen and in excess of 50 shots were fired at them whilst inside the sangar.

[321] M138 quickly identified that the shots being fired at them were passing well above their heads and he said, “the next time we get fired at, we all stand up and look for gun flashes and fire.” He said it may seem a stupid thing to do but it was the only way to identify the positions of the gunmen. This witness was said to be clearly upset when he was speaking to the HET. He said he could clearly identify gun flashes from gunmen who were located past the Henry Taggart Hall and on the other side of the Springfield Road and he was unable to say if he had hit anyone. He said the return fire was well controlled and within the laws of engagement. He said he remembered a call going out on the radio saying “ceasefire, ceasefire, do not fire back, repeat do not fire back.” He did remember some of his comrades, including M506, but overall the witness was extremely upset about this account to HET and, as I have said, could not make any further statement prior to his death in November 2018.

[322] There was another HET report from a witness who did not give evidence, M146, who simply said that M506 was in his company which he thought was either 4 or 5 Platoon B Company. I am not sure this is particularly controversial as it seems M506 accepts that he was in 4 Platoon of B Company. M157 was also based at Vere Foster School. He provided evidence by way of a witness statement to the Coroners Service of August 2018 and there are two HET notes of his recollections at the time. He also gave evidence on 21 March 2019. It is clear that he was also involved in the internment arrests and he was based in Vere Foster School. On looking at his evidence he could not actually give much by way of an exact eyewitness account of events. He referred to stories that he heard on the night of internment. For instance, a story of a woman who was caught in crossfire as she got off a bus on the corner near to the green of the junction of Springfield Road and Divismore Park. The other deaths that he knew occurred he said he only heard about recently, including that a priest was killed.

[323] He did refer to the issue of the sangar on top of the school and the location of the flats in Moyard estate. He referred to the sangar being a good vantage point to see everything. He said that there was firing towards the Vere Foster School particularly at the person who was based on the sangar of the roof. At paragraph 17 of his statement he did raise a point that during the firing that went on they were asked to go out towards a small playground next to the school to try and see who was firing at them from the flats on the estate. He said he did not remember who ordered him to do this, but he remembered that he was told that the firing was being aimed at the sangar on the roof of the school. He said he remembered taking cover behind a wall to try to pinpoint anyone who was firing from the flats but they did not see anyone. He said he knew he was with someone but he could not remember who this was. They both had weapons with them but he could not recall that they were provided with any other equipment. He said he believed the firing was coming from single- shot weapons but he was not aware of who exactly was firing the shots, he just presumed it was the IRA but he was also aware that the UDA were based on a council estate somewhere further out of town. He said the only reason they would have fired on someone would have been if they were about to shoot at them. That was the only real justification they had to shoot. He said he never fired a weapon during his time in Northern Ireland on either of his two tours here. In relation to going to the playground the witness accepted that this was totally overlooked by Moyard and that he would not have had any particular protection.

[324] M1300 also prepared a statement for the Coroners Service dated December 2018 and he gave evidence on 1 April 2019. He gave some relevant evidence in relation to the day in question when he was based at the Henry Taggart Hall. It is really paragraph 16 of his statement which is relevant, where he said:

“About half an hour after the first shots were fired at the base, I was tasked with taking ammunition to the soldiers manning the Sanger on the roof of Vere Foster School.

The Sanger was on the roof of the school at the far end overlooking the nearby flats.... It was light, though getting dark, when I went to the roof of the Vere Foster School. I travelled unarmed."

[325] He said he was walking north along the flat roof when he was fired at from the flats to the east of the base. He said he could just hear the bullets around his head - "they did not miss me by much" - and it was obvious that the fire was targeted at him. He said his impression was that the fire came from one gunman who he thought had a Thompson submachine gun because it was automatic fire. He said he immediately dropped flat on the roof and waited for the firing to stop. The firing lasted for about 15 seconds. He did not hear anything by way of return fire. He said when the firing stopped he continued making his way to the sangar and he delivered 50 rounds of ammunition to the sangar. He said he did not ask the soldiers in the sangar if they had fired any shots and he did not say anything about the shots that were fired at him. He said he gave them the ammunition and got out of there as quick as he could and went straight back inside Vere Foster School and reported to the Company Commander what had happened.

[326] This witness then referred to a Watchkeeper's log of 2 Para from 9 August and a message at 1925 hours from B Company to TAC HQ which states: "Shots from Divismore flats." He said he thought that might have been when he was fired at because there was no further gunfire in the 3-60 minutes following the incident and the Watchkeeper's log is silent for a period following that message which reflects the period without any fire at the base. He said he thinks about the same time he visited the sangar on the roof of the school, the storeman took extra ammunition to the sangar outside Henry Taggart Hall. The exhibit from this witness whereby he marked certain locations in particular the sangar are attached to this statement.

[327] I found M1300 to be an impressive witness. He said in his evidence that his background in education had set him apart and that is why he was effectively a clerk.

He said he did not smoke or drink and did not fit in with regular soldiers. He simply referred to this incident which was obviously a frightening incident in relation to the resupply of ammunition and he could not add anything more in evidence.

[328] Other soldiers gave evidence from this general area including M1374 who referred to not being able to see the waste ground and could only give general evidence about the direction of fire at Henry Taggart Hall.

iii. 3 Queen's B Company

[329] The next evidence I want to turn to is that of 3 Queen's B Company. As is apparent, there are no contemporaneous statements or RMP evidence from any 3 Queen's B Company soldiers. However, it is also clear to me and has been established in evidence that 3 Queen's B Company were in the area at the time. The arrest report for Harry McNulty points out that he was arrested by M68, and M68 gave evidence to the inquest by video link on 11 June 2019. He also had provided a statement to the inquest and in that he said he was a private in 3 Queen's B Company, his Platoon Commander was M579. The only other evidence that I have from 3 Queen's B Company are two statements which were read in from M575 and M579, which I will come to.

[330] In his statement M68 indicated that around midday on 9 August 1971 he was deployed in Springmartin due to inter-factional tensions. He said that when there they came under fire and the gunfire lasted some 12-14 hours. He said, "A sniper and a radio operator from 3 Queen's went onto a roof at the Springmartin estate to find out where the bullets were coming from. The sniper with his telescopic sight had a better chance of seeing the shooters than I had with the naked eye". In his statement M68 also said that he witnessed gunmen hiding behind women and children and that despite receiving shots from the crowd he did not see any soldiers firing back from their side. He and his colleagues were, he said, "disciplined, well-trained, highly motivated soldiers and morally correct in everything we did."

The arrival of 3 Queen's in the area was around about 2.00pm according to the evidence given in relation to this. M48 maintained that from this arrival at 2.00pm for the next 12-14 hours there was sporadic fire.

[331] A particular feature of this evidence was what was described as gunman using others as human shields. However, upon questioning the witness could not really elaborate upon this. It was also clear when the witness was questioned by virtue of the logs that his account of a prolonged period of shooting from 2.00pm did not really accord. It was put to him that the HET had described him as cagey when asked if he had fired that day and he in evidence said that he was not being cagey he simply had difficulties in talking to strangers. It was clear that there were also some memory difficulties on the part of this witness. As a result of this, information was obtained from Mr Clarke of HET in terms of an email attendance and that effectively confirmed what had been said. Overall, whilst M68 establishes that 3 Queen's B Company were in the area at the time, the evidence was not particularly concrete about their actions and there was no identification of particular shooting vis-à-vis the waste ground.

[332] The only other two witnesses from this military unit, M575 and M579, had their statements read in starting with M575. M575 in his statement said he was posted to 3 Queens in and about January 1971. He was Company Commander at the rank of major. He said he reported to the Commanding Officer of 3 Queen's at the time. He said B Company consisted of 3 Platoons and the Company was based at Ballykinler some miles south of Belfast. He said in his statement that he recalled that on 9 August they were told to go to Belfast and they remained in that location for one or two days. The area where the Company was instructed to go was a few hundred metres from the Springfield Road Police Station. The witness in the statement said, "we were told to observe and keep the area quiet, we were instructed to check any vehicles travelling in either direction along the Springfield Road." He said in his statement he had been asked if his Company was placed in that position in order to

protect the Headquarters of the second battalion of the Parachute Regiment located at Springfield Road Police Station and he believed that to be likely. He said:

“During our time in that location we could hear sporadic gunfire in the distance. However, we did not see any firing and we were not fired upon. We did not encounter street trouble at all, the gunfire consisted of a number of bursts of 4-5 rounds as well as single shots. It was never a full magazine being fired in quick succession.”

[333] He said at no point during this time did he have any idea of the location or actions of anyone within or under the control of 2 Queen’s. He said he did not receive any situation reports or updates about what was happening with other military units. He said he was never knowingly under the command of 2 Para and he never reported to anyone in 2 Para during that tour. The witness then commented on 2 Para radio logs and said he was shown an extract of a typed version of a radio log of communications with 2 Para Headquarters and asked about serial 150 recorded at 1810 hours. It is recorded as being sent by Y29. He said that message did not look familiar to him. He was also shown a message at serial 211 recorded 2242 hours referring to the firing of baton rounds sent by Y2. He said once again, “I confirm that I did not come under the control of 2 Para nor reported information to them at all. Further, we did not fire our weapons at any time nor receive any fire.” He said neither of these two messages referred to his Company and Y2 must have been referring to some other unit. He was also referred to the report of Operations.

[334] He said that they did not move to Springmartin and that the paragraph in the report shown to him referred to 2 Queen’s. He referred to the 2 Para report suggesting that control of the Turf Lodge area was handed over by 3 Queen’s at 1515 hours on 9 August but he said he was not in Turf Lodge and did not take control of Turf Lodge. He also disputed the report which suggested that Andersonstown and Suffolk were handed over to 2 Queen’s and he said he was not in those two areas and

his soldiers did not take control of those areas. He also referred to ciphred statements which he said appear to have been made by 2 Queen's and he said he knew nothing about 2 Queen's operations. He was shown a document in respect of M1860 entitled "Confidential Report - Soldiers." As Company Commander he stated he was one of the reporting officers and he wrote a short report recommending M1860 for promotion. He said he agreed with everything he wrote in that form however nothing was related to anything that he witnessed in Belfast between 9 and 11 August 1971. He said they were located on the Springfield Road in the following days until the end of the operation and they travelled back to Ballykinler after 2-3 days.

[335] Next is M579 who was also in 3 Queen's stationed at Ballykinler and was a lieutenant and a Platoon Commander of 5 Platoon within B Company. He said he could not remember anything about the internment operations. He said at paragraph 14 of his statement:

"It has been suggested to me that B Company of 3 Queen's was deployed to the Crossmaglen area on 9 August 1971 and then sent to Belfast on 9 or 10 August 1971. This does not sound familiar to me at all, I do remember being deployed to Crossmaglen at some point, as this was a notorious area. We were usually deployed as a Platoon, rather than a whole Company. I do not recall that particular deployment, nor do I recall being deployed to Belfast for one night, but it could have happened. We were being deployed all over Northern Ireland at that time, sometimes as a Platoon, sometimes as a Company."

[336] M579 also said in his statement he was never required to discharge his weapon in the 1970-71 tour nor at any other time and the only incident he recalled

was one at Flax Street Mill. He said he had never had any interaction with the 2nd Battalion of the Parachute Regiment on the 1970-71 tour or the 2nd Battalion of the Queen's Regiment. Overall, this statement therefore has nothing substantial to add to the events.

iv. 2 Para Support Company

[337] I now turn to look at the witnesses who gave evidence from 2 Para Support Company. It is fairly clear from these witnesses that 2 Para Support Company were in Springmartin on the night in question. They were effectively a Support Company for 2 Para B Company who were stationed in Vere Foster School/Henry Taggart Hall and it makes sense to think that they were called from their base at Paisley Park to this area to assist after the Hall came under attack earlier in the day.

[338] It has been quite difficult to piece together who exactly was present and I heard a limited amount of evidence from soldiers who were actually part and parcel of this company. One I did hear from was M139 who was a private in the Anti-tank Platoon of Support Company. He made a statement for the Coroners Service dated 20 August 2019; attached to that is an interview with HET and he gave oral evidence to the inquest on 15 October 2019. He said that he was a private at the time and he confirmed that he was based in Paisley Park and involved in the internment arrests. There is an arrest statement attributed to M139 which details his involvement in Operation Demetrius along with others who are referred to in his statement, namely M1341, M1270, M1354 and M603/M1231. That was, of course, earlier in the day but later in the day this witness said that he was called out to assist B Company due to an attack on Vere Foster School/Henry Taggart Hall. In his statement M139 therefore described arriving on the Springmartin Road in the back of a Pig/ APC.

[339] In common with his HET account, M139 said that he left his SLR in the back of the Pig/ APC and took a riot gun and he described this as idiotic given the circumstances. He thought that there were about 8-10 soldiers in the Humber

Pig/APC when it arrived and when pressed to identify who they were the only person that he thought it could have included was M1341. M139 then confirmed that he was effectively deployed to the Springmartin Road, where the soldiers disembarked, but ultimately to the Springmartin flats. In his statement at paragraph 25 he said:

“We disembarked the Pig and walked towards the nearby flats. The flats overlooked Vere Foster School and Henry Taggart Hall. The Pig was then sent up to the injured, with my SLR in the back of it. I knew that the Pig was going to pick up injured because I could hear soldiers on the ground shouting that fact as we moved into the flats.”

He continued in paragraph 26 to say, “we could not see Vere Foster School and Henry Taggart Hall from where we were but we could hear gunfire.”

[340] A part of his evidence which was particularly concentrated on was the next observation, whereby M139 said that he noticed green tracer bullets coming towards him from overhead and he said that he knew the British Army had red tracer bullets rather than green tracer bullets so it was not the Army. He was pressed upon this in his evidence but maintained that they were green tracer bullets. He said he could not see the shooters. He said that effectively they were instructed to cover the back of B Company’s position so that nobody could get around the flats to aim fire on the school or the hall. He said he went up to the third or fourth floor of the flats to get a height advantage; he could see the flat tarmac roof of Vere Foster towards his left - hand side. He said he could see two or three people moving around on the ground but they were probably 300 yards away from their position and they were moving away from Henry Taggart and Vere Foster School and away from him towards his right. He said they appeared to be civilians. He said his instructions were to observe the area and if they were fired on to return fire as per the Yellow Card. He said he remained in that position for a couple of hours and he could hear shots fired but he

did not see any shots. He said he did not see any soldiers discharge their weapons and he did not discharge his riot gun at any point. He then said they were called back to Paisley Park and later in the evening, or perhaps the following evening, he said they were called out to the bottom of the Springfield Road near Mackie's Factory in relation to another matter.

[341] In evidence he was asked whether there were trained snipers in his Company and he said yes there would have been one, but he could not identify who that was. M139 was asked at length to identify the other people with him. He essentially said that there were a number of Support Company soldiers split across a number of flats and one soldier was with him in his flat but he could not recall the name. He was prepared to accept that this soldier could have been Soldier T. Whilst M139 said that he did not fire his weapon himself he said he was aware of soldiers shooting from other positions in the flats because he could hear the noise of gunfire. Other than that, even though pressed at length, he could not identify other ciphered soldiers and he could not give any clear evidence about who was firing on the soldiers or gunmen in the area. M139 also accepted that he had knowledge that Queen's Company soldiers were in the area. In his evidence, when questioned, he accepted that inadvertent fire was a possibility and that some of the shooting towards the Springmartin flats could have come from Vere Foster School. He could not say anything more about conversations that happened after this incident between soldiers going back to Paisley Park or at Paisley Park.

[342] M206 also gave evidence on 21 October 2019 from the perspective of Support Company. He made a statement to the Coroners Service dated October 2019 and he had also met with HET on 9 March 2001. In his statement to the Coroners Service M206 took some issue with the note. Firstly, the date should be 2011 and there were some inaccuracies in relation to his tour of duty. He did however confirm that during the 1971 tour to Northern Ireland he was based with Support Company at Paisley Park and was part of Anti-tank Platoon. He remembered being part of the internment operation and arresting a person.

[343] In his evidence M206 also gave an account of being dropped off in the Springmartin area with other soldiers and ending up in a flats complex. In his evidence he suggested that the role was to help women and children to safety but in any event he indicated that there was heavy firing when he was in this area, although he said that he did not discharge his weapon at all and nobody around him discharged their weapon. He said he could hear shots in the area but he did not know where they were coming from. In his note to the HET in 2011 he referred to tracer fire coming from soldiers in B Company. In his statement M206 clarified this point. He said:

“I recall noticing that the tracer rounds were green however I cannot recall whether the tracers were going between the blocks or over the top of the blocks.”

[344] He said so far as he was aware the military did not use green tracer rounds. At paragraph 11 of his statement he also refuted part of the HET note by stating:

“The HET notes at the bottom of the first page that ‘he was later told that the tracers and gunfire had probably come from ‘B’ Coy that night and people had been killed.’”

He said in his statement and reiterated in evidence:

“I do not now remember being told the fire was coming from B Company. I note that Henry Taggart Hall was downhill from our location. The fire coming towards us was going over us. It would seem strange if the fire was coming from B Company because of the green tracers I could see. However, I am not sure.”

[345] He was asked in quite some detail about persons in his Platoon and he effectively said he had three particular memories of M12, M592 and M450. In relation to M259 and M1341 he said the names rang a bell but they were not in his Platoon. He clarified that they were in Support but not Anti-tank. He was generally unsure when looking at the various lists of ciphered witnesses and could not help the inquest in great detail with who was with him. So whilst this witness was clearly at the location he could not say anything about what exactly was happening regarding shooting at the persons on the waste ground which led to the deaths of Father Mullan and Mr Quinn.

[346] The other Support Company witness that I heard from was M1270. This witness gave evidence to the inquest at the latter stages on 2 March 2020. He made a statement dated December 2019. Attached to that statement is an RMP statement form which dates from the time and clearly indicates that M1270 was involved in arrests on the morning in question. In that arrest statement reference was made to him being with M603, M139 and M1341. He said that he was with Anti-tank Support Company during this time. He said that they were based at Paisley Park. He said all soldiers had self-loading rifles which used 7.62mm ammunition and they would have been carrying 80 rounds while out on patrol, which was four full magazines. In his statement he referred to the Yellow Card which he said was a very important part of the training and its importance was constantly emphasised. He said in accordance with the RMP statement that he made an internment arrest. Once the arrests were made they returned to base.

[347] M1270 said that normal patrols went out though he was on rest but during the morning the Operations Room at the base received a telephone call from Mackie's, the engineering factory. The caller was concerned about the watchman working at Mackie's at that time. He then said he was separated from his main section and was put in charge of an ad hoc patrol which included M139 from his Section and four other men. They were deployed in a Pig/APC or a Land Rover to Mackie's where

there was a crowd across the street. He then described what happened at Mackie's in that there was a watchman who was dead inside and it appeared he had been killed by a blast bomb and there was a crowd outside. He said they were fired upon from the crowd for a few split seconds from what he thought was a Thompson submachine gun and he then engaged the crowd with CS gas and rubber bullets before they dispersed. He then said RUC relief arrived which allowed them to leave that location.

[348] He said in his evidence that they then deployed to two or three other incidents in the Springfield Road area that were happening that day. He said he did not recall these very well but they were keeping the crowds moving and not letting them consolidate. He did point out that they were fired upon several times. He said these incidents took most of the day so they were running out of rubber bullets and gas and at some point they were restocked in the street with gas and rubber bullets by the Company's Colour Sergeant and he also brought them a meal. He said it was shortly after they had been restocked that they were informed that B Company were under heavy attack at their base. He said that his Company were then deployed to Springmartin in an area of high ground which overlooked the Moyard area.

[349] In his statement he said, "I understand that B Company were under fire coming from Moyard flats and we could not have assisted from the bottom near the Henry Taggart as there was a crowd." In relation to what happened then he said it was still light when they arrived in Springmartin. He was with the same people, they could hear gunfire as they drove to Springmartin and they knew the location of the flats at the time so they deployed in a position where they could see the flats. He said he moved forward to a position with one other soldier on a balcony in flats in which they could overlook the Moyard area. He said M139 was with a soldier in a position to his right about 10-15 metres across from him. He said he could not see them but he could verbally communicate with these other soldiers.

[350] M1270 then said this:

“From my position I could see three gunmen on the right hand side of the Moyard flats. I knew they were gunmen because I could see they had rifles. One gunman was alone next to a dustbin at the corner of the building, using the bin as cover. He was to the right of the other gunmen I describe in this paragraph. There were two gunmen together on the left just outside what looked like a catchment areas for bins. I do not recall how far away they were from me but they were not close. I shouted to M139 that the gunmen were firing down towards the Vere Foster School and gave their position. However, I think he could not see the gunmen from his location. At this time the two gunmen on the left spotted us and fired a couple of shots at us. We could hear the crack in front that sounded like a high velocity weapon being fired closely over our heads. The fire was not automatic and we did not hear any automatic fire. I did not see any tracers.”

[351] M1270 then said that he fired two shots at the man next to the dustbin. He thought the shot hit the dustbin which exploded with the pressure of the shot. He said he did not hit the gunman but he would have been hit with shrapnel and the gunman scrambled into a crawling position for cover. He said the two gunmen on the left ran into the bin area and he did not engage with them. He said when he turned back to the man on the right, next to the dustbin, he had disappeared. He then fired a few shots at a wall nearby to the men to get a ricochet going towards them. He said that this entire engagement took perhaps one minute, possibly two, and he fired no more than seven rounds. He said he believed at some point that M139 deployed inside a house but he could not recall details about that clearly. He then said that he believed there were men inside the Moyard flats firing at them

because they could hear a crack as if bullets were shot at them but the thump was muffled which would have been explained by the fact that the gunmen were inside. He said he could not locate the gunmen inside the flats. He said in his statement:

“We could hear gunshots from every direction; it was all around us. I could not hear any gunfire from Vere Foster School, I imagine it could have been too dangerous to have a soldier placed in the Sanger above the school.”

[352] He then said, “we backed off into cover and were coming under fire but we could not identify the location to return fire and when we got back to cover Major M and M1019 were there.” He said as the initial engagement with the gunmen was over they were still receiving sporadic fire in his direction so he ordered his section which would have been five men to watch and shoot. This meant that the soldiers would scan their line of fire and would have the right to open fire without warning on a gunman they believed to be a threat. He said he then gave Major M a quick briefing on the situation and what had just happened. In relation to the Queen’s soldiers he said that a patrol of soldiers from the Queen’s Regiment appeared from deeper within Springmartin. He said he had no idea that they were in Springmartin until that moment. The Queen’s soldiers had a prisoner and the weapon this man had been using, which looked like a bolt action gun. He said a crowd of Protestants were coming towards the soldiers in order to access the prisoner and they assisted by stopping the crowd. He said the Queen’s soldier put the man in the vehicle and drove away.

[353] He said they then redeployed to a deserted factory near Celtic Park which acted as their base for the night and they were deployed during the night around Springfield Road and the Falls area to various incidents. He said that they did not attend in any location near Henry Taggart Hall and they did not fire their weapons again during the night. He said he had been asked whether he saw a priest at any point that evening and he said he did not. He said he was asked whether he could

see a waste ground from Springmartin and he said, "I think from my position that would not have been possible, though in any event I was focussed on only the Moyard so do not remember."

[354] This witness was shown ciphered statements and said he could not put a name to any of the ciphered soldiers' statements and he did not, and could not, identify himself as one of the ciphered soldiers.

[355] A considerable amount of time was taken in evidence dealing with these matters, which are important given what M1270 referenced as an engagement with gunmen at Moyard. He was quite clear in his evidence that there was engagement with the gunmen although it is fair to say that when pressed about absolute specifics of where they were he was at times a little unsure. In relation to the persons that he knew, he said M139 was part of his Section and he knew him well. He also said he knew M1354 well. In relation to M1341 he said he could not recall him being there but accepted that he may have been.

[356] M1270 was questioned at length about his knowledge of what happened on the waste ground. This is unsurprising and was entirely merited given that he is the only soldier to give evidence who admitted firing shots from Springmartin into Ballymurphy. However, he maintained that his firing of shots was at gunmen at the bin area in Moyard flats. When pressed about what was happening on the waste ground he said he did not see women, children and other people running across the waste ground at any time and he effectively maintained that he was unable to see the waste ground because of his position. Whenever he was asked about his position being on a balcony he said it was at ground level and he could not see the waste ground at all. This point was pressed a number of times given the whole issue of the flats being in an elevated position with balconies and so it is hard to understand how soldiers would be at ground level.

[357] M1270 was also asked to confirm the position of the gunmen with the use of maps. He did mark the position of the gunmen on a map as Exhibit B1/35 which, it was suggested to him, given the shape of the flats meant that the firing from the flats could not have been down towards Vere Foster School as that was blocked by the four storey building immediately between their position and the school. He was also pressed by the use of maps and more effectively by contemporary photographs in relation to his position on the flats. It was put to him that from a position on the balcony in the flats there was a view across to Moyard which would have allowed M1270 to see the waste ground in which Father Mullan and Frank Quinn were shot. The witness maintained that this was not right because whilst he had said he was on a balcony he said this was at a low level. He placed himself between two blocks of flats in Springmartin, unable by virtue of the gable end walls of the flats to see to his left or his right and at ground level. He said he was not able to see the waste ground at all and he said he did not go up any steps and the reference to balcony should be interpreted as being in the gap between the blocks on the ground floor.

[358] Also in evidence, M1270 admitted that having looked at the maps he realised that the gunmen he described probably could not see Vere Foster School. Instead, he, in his evidence, said that the gunmen were firing in almost the opposite direction from Vere Foster School, not at soldiers in that location nor at soldiers in Springmartin but instead at an empty waste ground beside the Springmartin flats. This is an area where there has been no evidence of any activity at all by gunmen or soldiers. It is hard to believe that the gunmen were firing at an empty area whilst there were clearly soldiers in Springmartin flats and at the Vere Foster School. This is the only time that a witness gave evidence in relation to this issue.

[359] The evidence in relation to the positioning of M1270 contrasts with that of M139 who described being in an elevated position and so there are two issues with this evidence. M1270 had clearly changed his evidence in relation to the gunmen and where they were shooting and so it remains to be seen whether this evidence can be relied on. What is clear is that M1270 maintained that he had no vision of the waste

ground, that he did not fire on the waste ground, that he was not responsible for the death of Father Hugh Mullan or Frank Quinn and that he did not know who might have been. The point was put to this witness that he was part of a small platoon, Anti-tank Platoon, having approximately 24 soldiers. The point therefore arises why this soldier could not have more information about what happened on that day either from his own knowledge or from what was said when the soldiers returned to their base and discussed this matter. The point was put that the death of a priest, in particular, was an event of notoriety.

[360] In terms of other relevant witnesses the position of M1341 is significant. Unfortunately, M1341 did not attend this inquest. This is a matter of considerable regret. The next of kin in this case submitted that M1341 should attend the inquest. However, ultimately I received evidence of a medical nature which militated against that. The circumstances of this are entirely unsatisfactory because the inability to give evidence arose after investigations took place by the Coroners Service in relation to M1341.

[361] Fairly late in this inquest, as a result of investigations, I raised a query in relation to calling M1341 to this inquest. I had not initially been advised that this was going to be a core witness. However, due to the efforts of the Coroners Service I decided some investigation needed to be made. This led to a rather convoluted process. Eventually, some material was provided by the MoD in relation to M1341. I should say at the outset that M1341 was represented by counsel and argued that the material was privileged. I gave a ruling that the material was not privileged, a transcript of which I attach.

[362] That led to a situation where I required M1341 to give evidence. However, it became clear that a medical excusal application was going to be brought. Prior to that medical excusal application I had asked that a statement be taken from M1341 on a discrete issue, namely whether or not M1341 was Soldier U. I required this on

the basis of the material I had received from the MoD. M1341 did file a statement dated 11 September 2019. In this at paragraph 3 he stated:

“For many years I have had in my possession a single page of a Royal Military Police statement from a Soldier U. I have been asked to provide an explanation of the circumstances of how this came to be in my possession.”

[363] At paragraph 4 he said:

“I found this piece of paper amongst the bits and pieces in my house which separately included my red book and my Australian passport. The piece of paper was not inside the red book, but was located in the same place as the red book.”

At paragraph 5 he said:

“I do not know why I have this page in my possession and I am unable to say whether I am Soldier U or who Soldier U was.”

[364] Attached to this is the first page of the RMP statement from Soldier U. As I have said following this revelation M1341 through his representatives argued that he was not fit to give evidence and ultimately he did not attend or participate in any direct way. That means effectively that I am left with the statement to decide whether or not M1341 is on the balance of probabilities Soldier U. As I have consistently stated in this inquest there is a prejudice to the person who potentially may have evidence to give or evidence to refute in this process. The fact that M1341 did not attend means that I have to proceed on the written evidence. I should say that I did suggest various different mechanisms whereby M1341 could come to give

evidence including special measures, including the answering of various questions in the first instance, but effectively all options were closed and M1341 was adamant through his representatives that he would not give evidence to this inquest. I therefore have to determine in the round whether there is enough evidence that M1341 is Soldier U.

[365] The other evidence in relation to a ciphered soldier comes from M34 who did give evidence helpfully to this inquest on 3 March 2020. M34 was a late witness but helpfully he did provide a statement of December 2019 to the Coroners Service. He had also provided a first statement in January 2019 to the Coroners Service. In relation to that, he said that the first statement was not correct. It stated that in August 1971 he was a lieutenant in B Company of the 2nd Battalion of the Parachute Regiment known as 2 Para. It said he believed he was in Northern Ireland at the time but had no memory of being in Ballymurphy during the events in question. In the second statement M34 stated that he was in fact a corporal in Support Company of 2 Para at the time. He said he saw this error when he signed the statement in February 2019 but he did not amend it. He was pressed in relation to the reason for this and he said that he wanted any involvement in giving evidence in the inquest to be finished as quickly as possible and he thought it would be quicker and easier to return a signed copy, despite this error.

[366] As I explained during the course of this evidence, I was concerned about that and happily a second statement was taken which is significant in that it points out that this person was actually a corporal in Support Company of 2 Para at the time. The significance of the evidence is in relation to whether or not M34 was in the position of a sniper. He said in his statement that on one tour he was issued with a .303 rifle from the Company armoury instead of an SLR but he does not think that it was this tour. In any event he said he never discharged his .303 sniper rifle on any tour in Northern Ireland. He said he did not have any clear memories of being involved in the internment operation in Belfast but he did have a vague recollection of being involved in an arrest around this time. In relation to the accounts of other

witnesses he confirmed that he had been told that other soldiers have named him as potentially being in Ballymurphy in 1971 and potentially firing shots. He also said he had been told that other soldiers had identified him as carrying a .303 rifle on the 1971 tour to Belfast. He denied this and said he did not think he was in Ballymurphy on that tour. He said, "I do not think I had a sniper rifle on that tour" and did not believe that it was in 1971 because he arrived late to that tour and he imagined that he would have been given an SLR instead because training was required before a sniper rifle would be issued.

[367] The point at issue is whether this witness is Soldier T and he was shown a copy of that statement. He said that he did not believe he was Soldier T. In particular, he pointed out that Soldier T's statement was made on 19 March 1972 at Dunmore Park and that it stated that Soldier T was based in Belfast at the time. He believed he was based in Northern Ireland in March 1972 but did not know where. So overall M34 did not accept that he was Soldier T who fired shots on the day in question from a .303.

[368] M1354 was also called towards the end of the inquest. He spoke to the Coroners Service on 23 January 2020 and said that he had no memory of being in Ballymurphy during the events in question. He was responsible for an arrest, because there is a Royal Military Police statement which is ascribed to M1354, and so he was asked to provide a second statement which is dated January 2020. In that statement M1354 confirmed that he was with Support Company of 2 Para in Northern Ireland. He had a Royal Military Police statement and whilst he did not have a formal statement there was a note of a meeting with the Coroners Service of 23 January 2020. In that, he confirmed he was a member of Anti-tank Platoon which was part of 2 Para Support Company. He said he did not recall being in Springmartin flats. Reference was made to the fact he was shot accidentally in 1972; he replied "yes" but he could not remember anything more about it. It is recorded in the note of his conversation with the Coroner's Investigator that in response to being asked about these matters, he stated "what is all this about?"

[369] It was explained that this was an inquest and he said he had a poor memory and could not say anything more about it. He was questioned about this and whilst he could recollect some people who were part of Anti-tank Platoon and he had confirmed that he did have a nickname which M139 referred to, he could not remember anything in relation to what happened or he could not remember any discussions that had taken place between soldiers who were in the same Platoon. Overall, this witness could not really recollect anything at all.

v. Other Anti-tank Platoon witnesses

[370] Three further witnesses gave evidence of being in Anti-tank Platoon. The first I refer to is M88 who gave evidence on 11 September 2019. He made a statement in December 2018. In his evidence he confirmed that he was part of Anti-tank Platoon which was part of Support Company 2 Para. He could not remember the names of others who were involved save the Support Company's Commanding Officer was a Major M12. He said he had no direct recollection of events. He said he did not make any statement at the time and really could not offer anything by way of assistance to the inquest save general evidence about what was happening in the area at the time.

[371] A further witness is M158 who also made a statement to the Coroners Service in August 2018 and gave evidence on 11 September 2019. Again, he said he was a private in Anti-tank Platoon. In 1971 he was Corporal still in Support Company of 2 Para. This witness in his statement gave general evidence about the movements of his Company and Platoon. He also gave some evidence about daily routines. In relation to the events in question he said he did not recall arresting anyone as part of the internment operation. He did recall some patrols at the time.

[372] In answer to the question whether he could recall an incident on 9 August 1971 he said that he could not recall any specific incident. He said that he came under fire at Vere Foster School and Henry Taggart Hall every day so there was no

incident that stood out. He said he had no recollection of seeing or hearing any soldier or civilian being shot whilst he was at the base. He said he could not recall being on the roof of Vere Foster School and he could not recall any debriefs after this event. There is a file note in relation to this witness from HET dated 8 November 2011. In that it stated that he was at Ballymurphy on internment day based at Vere Foster School. He remembered there was heavy firing during the evening and at one stage he was on the roof of the school but did not discharge his weapon.

[373] This witness then made a second statement dated September 2019 in which he said that soon after giving his previous statement he realised that the content of the statement may have been inaccurate. He then stated in the second statement that he was not in Northern Ireland in August 1971 and he was not part of Operation Demetrius. Further, he stated he was never in B Company of 2 Para nor in any other rifle unit of 2 Para. He said his first tour to Northern Ireland was for Operation Motorman in February-June 1972. In relation to his previous references to internment he said he was describing an operation that took place during Operation Motorman. He said that the events referenced in his HET account were correct however they must have occurred during 1972 and not 1971. He said in this statement he mistakenly believed that he had been at an incident the interviewer referred to as at Vere Foster School and he said the Commanding Officer M12 had been there. He said that he assumed the interviewer must have been talking about the incident he could recall which he believed was in 1972. So overall, this witness distanced himself from having any involvement in the events in question.

[374] The last direct witness from Anti-tank Platoon who gave evidence was M742. This witness provided a statement dated September 2019 and he gave evidence on 17 October 2019. He said he was not interviewed by the Historical Enquiries Team and in his evidence he said he was not entirely sure that he was in Ballymurphy in August 1971. He did say he had recalled being in an arrest operation but he was not sure whether that was internment on 9 August 1971. He had no direct evidence to give in relation to the events in question and he could not remember a debrief or

conversations about the events in question. He did however give some helpful evidence about others who he thought were in Anti-tank Platoon on 9 August 1971 which included some of the witnesses that I heard from, in particular, M139 and M1270. He did not have any particular recollection of anybody apart from M139 and M603. He had no recollection of M1270 or M1341. He also referred to M34 remembering him as a sniper who was attached to Anti-tank. He agreed that it was a relatively small unit but he said in answer to considerable questioning that he could not recall conversations about what had happened or who might have been involved in events at Springmartin.

vi. 2 Queen's A Company

[375] I now turn to the role of 2 Queen's A Company on the night in question. The issue in relation to this is whether or not 2 Queen's A Company were in fact stationed in Springmartin at the relevant time when Father Mullan and Frank Quinn were shot. I have been greatly assisted by the fact that certain military witnesses have come to give evidence in relation to this issue. In particular, M71 gave evidence to this inquest on 3 March 2020. He had provided a statement to the Coroners Service dated 4 November 2019. He presented in a very straightforward and helpful manner to this inquest in terms of indicating the position of 2 Queen's A Company on the night in question. He was the Platoon Commander. In his statement at paragraph 7 he quite clearly stated that around 2400 hours on 9 August 1971 his platoon took over control from the Parachute Regiment on a number of observation posts in a block of flats in Springmartin Road. He said in this statement that there was no firing in the vicinity of the observation posts at the time they took control, but he was aware of firing in the general area. He said he could not recall receiving a briefing from any other unit prior to taking control and he could not recall seeing any Paras on site.

[376] The statement also said that on the morning of 10 August 1971 he saw two wooden crosses on the waste ground in front of the flats and he recalled that they

were informed by a local resident that these were erected to recognise the deaths of two individuals the previous night. He did not recall any more details in relation to this. He said that during the night of 10 August 1971 they received a tremendous amount of incoming fire from five or six different locations. This witness also was shown ciphered witness statements which were taken at the time and again with commendable candour he indicated to the court that he thought he probably was Soldier H. Soldier H's statement was taken in Werl in West Germany on 23 February 1972 and it is important to stress the content of this, which I set out as follows:

"I am the Pl Comd of Platoon Company 2 Queen's, stationed at Werl. On Thursday 5th August 1971 I arrived in Northern Ireland as part of the advance party of 2 Queens. We were based at the RAF Station in Londonderry awaiting the arrival of my unit which in fact arrived on Monday 9 August 1971 at 1500 hours at Aldergrove Airport, Belfast. I met my unit there and then accompanied them to the RN Air Yard, Antrim. After being equipped with the IS equipment my unit were ordered to move to the Springfield District and we arrived at Paisley Park about 2120 hours that evening. The unit remained in Paisley Park while 'O' Coy OC and 'J' Coy CSM went forward to liaise with a Coy of 2 Para which we were to relieve. The OC and CSM returned to Paisley Park shortly before midnight and after briefing the unit Coy 2 Queens went forward to the Springmartin flats and relieved the members of 2 Para. This was completed by about 0030 hours Tuesday, 10th August 1971. Prior to this no member of A Coy 2 Queens was in any position in the Springmartin flats and after taking over these positions, no shots were fired by the Company until the following evening, Tuesday, 10th August 1971.

Whilst in the process of taking over the 2 Para positions I went to the top flat in a block of flats ... which was occupied by a Cpl and about 5 men of 2 Para. The Para Cpl informed me that they had been firing at men in the waste ground immediately to their front, but he did not explain this any further. I saw about 10 empty 7.62mm cartridges lying on the floor.”

[377] In his evidence M71 effectively confirmed these details, namely that he was the Platoon Commander of A Company 2 Queen’s. He confirmed that his Company were not in the Springmartin flats until after midnight on the night in question. He said that whilst in the process of taking over the 2 Para positions he did speak to 2 Para personnel who informed him that they had been firing at men in the waste ground. This witness was very clear that 2 Queen’s A Company did not have any involvement on the night in question in terms of firing. This is obviously highly significant when certain statements of this Company are relied on and the point is made that the date must be wrong and that they were in fact referring to gunfire on 10 August 1971. I will come to that in my summation of the case.

[378] The other witnesses who gave evidence from 2 Queen’s A Company effectively made the same case and I should say that M71 also assisted me greatly in terms of confirming various cipher numbers. M2312 also gave evidence from this Company. He acted as second in command of A Company and held the rank of lieutenant at the relevant time. He made a statement to the Coroners Service of 20 December 2019 and also gave evidence. In his statement he stated that once in Belfast A Company deployed to Springmartin. He said:

“I believe that the events of 9 August 1971, into which the Coroner is enquiring, occurred either while I was still in Antrim or I was en route and had not yet arrived in

Springmartin. I cannot remember exactly when I arrived in Northern Ireland or Belfast. However, I do recall that we were not in Belfast when the internment operation took place, so we could not have arrived prior to the morning of 9 August 1971."

[379] This witness also assisted with identification of cipher numbers. He thought upon being shown Soldier G's statement that this was M602 who was a platoon commander who had come from the Royal Corps of Transport and was attached to the Company for a year. He confirmed that he thought Witness H was M71. He thought that Soldier J was the Sergeant Major who he understood is now deceased and he could not assist any further. He did give an account of being stationed in Springmartin and waking up in a flat the next morning with M71 who confirmed that they both heard a splat against the wall and a long burst of automatic fire and upon hearing that burst the Sergeant Major rolled in his sleeping bag and said 'Bren gun' and rolled back over.

[380] The witness also confirmed in evidence that the Army did not have Bren guns so if it was one then it must have been fired by someone else. He also recalled seeing in the waste ground a number of black flags placed on it and he recalls noticing empty cases on the floor around them which appeared to be a combination of 7.62 and 9mm ammunition. He said in his statement, "I thought that the 9mm cases were from a Sterling sub-machine gun." He said he did not believe 2 Queen's had any SMG with them. He remembered that when he saw the cases he said to no-one in particular something like "somebody has had quite a fire fight." This witness stressed these were not his empty cases or cases from his Company since they had not fired their weapons and they had been fired during the time when they were not in the location. He said he did not know who it was, but someone at that moment suggested the fire fight was to do with the Paras, however he was not aware if that was true or not.

[381] M73 also gave evidence earlier on in this inquest which is of relevance to the position of this Company. He gave evidence in April 2019 and provided a statement to the Coroners Service dated December 2018. He said in August 1971 he would have been in B Company 2 Queen's. He said he remembered that when they landed in Northern Ireland they went straight to Antrim. He said 2 Queen's did not have a Battalion or Company Headquarters in Belfast as they were scattered and the role was to provide support to the Paras. This witness did not have any particular recollection in relation to the internment events. I should say that in evidence the witness confirmed that he was actually a member of A Company and not B Company. Some considerable enquiries were made in relation to this witness who it transpired had been contacted by HET and did not engage at that time. But in any event the witness did assist the Coroners Service by making a statement in 2018.

[382] He, in his statement, described being in flats in the area and described these as a block of empty flats when they were fired upon, however he said he did not discharge his weapon. The problem is that the witness in his statement did not give a direct time when this may have happened. The ciphered statements were put to him and he did not accept that he was any of the ciphered soldiers. Overall, the witness was not able to assist me in any way with the deaths of Father Mullan and Francis Quinn and he was not particularly clear in relation to the version of events given in the ciphered statements. The ciphered statements are relevant to mention at this stage. I have already dealt with Statement H in the context of the evidence of Witness M71.

[383] It is fairly clear that the other ciphered statements come from 2 Queen's A Company, if I start with Soldier G. He said:

"Sometime during the evening of 9th August 1971 my Platoon were deployed along the Springmartin Road overlooking the Moyard estate. Other members of 2 Queen's and 2 Para were also in the area. I cannot recall

how long we were deployed in our position but suddenly a gun battle started to my left between a number of gunmen positioned within the Moyard estate and soldiers on the Springmartin Road. The battle itself was initially quite heavy but eventually died away to spasmodic firing. There were a number of automatic weapons being fired but I cannot say how many or where they were located. I would not like to hazard a guess as to how many rounds were fired during the gun battle. We remained in position throughout the night and following morning till dawn. During this time we, the soldiers to my left, were subjected to spasmodic firing. Later the next morning I understood that a priest had been shot after having been caught in the cross-fire during the battle. I myself did not see any priest moving about in the area. I cannot say if my platoon returned fire during the period we were deployed on the Springmartin Road. I think that in fact they did not."

This was another statement taken at Werl on 25 February 1972.

[384] A further ciphered statement is that of Soldier J and this also related to being a member of 2 Queen's stationed at Werl. It also said on Monday 9 August 1971 about 1500 hours the Company arrived at Aldergrove Airport to commence internal security duties in Northern Ireland. The statement said then "we moved to the Air Yard Antrim arriving about 1630 hours." It then said, "having been issued with the special IS equipment the Company received orders to move to Belfast railway station where we would be guided by RMP...." It said that they arrived at the Railway Station at about 2030 hours and were met by RMP at 2045 hours. At this time the witness in this statement said there were 100% present and "there was no party had gone in advance." It said, "we were then guided by a safe route to Paisley Park in

the Springfield district arriving there about 2120 hours.” There was then reference to the Springfield Road meeting with the OC and CSM of 2 Para Company occupying the district at the time. It said firing was in progress so O and I had to stay by 2 Para armoured command vehicle in Springmartin Road until the firing ceased, until about 2215 hours. It said, “we were then taken forward to the 2 Para Ops and sniper positions in the Springmartin flats area. We left 2 Para Company about 2245 hours and reported back to Paisley Park to brief the Platoon Commanders of their operational task in the Springmartin Road area. The Platoons left Paisley Park at 2345 hours and proceeded to the Springmartin Road.” The statement said that it was approximately 0020 hours on Tuesday 10 August 1971 when 2 Queen’s finally took over the 2 Para positions.

[385] This witness referred to when he was inspecting 2 Para positions prior to taking them over. He went into a flat on the top of a block of flats which was occupied by a Section of 2 Para Company. It consisted of a corporal and about 5 men and he was told that they had shot several people in the field immediately to their front. They did not indicate what time this occurred but he assumed this was when shooting was going on. He referred to seeing empty cartridges lying on the floor. He said in this statement, “when I first heard the shooting in progress I heard sounds which appeared to be SLR 7.62 rifles, pistols and other rifles being fired.” This witness estimates about 50 assorted rounds were fired and the majority were 7.62mm.

[386] Soldier K also gave a statement from Werl and stated that he was the Platoon Commander of 2 Queen’s who moved into the Springmartin area of Belfast. He said they deployed at the junction of Dunboyne Park and Springmartin Road and his task was to ensure the safety of persons living in Dunboyne Park as it was feared that the houses were going to be burned down by the Protestant element living nearby. He said once deployed he heard over his radio that a large crowd of Protestants had collected in Springmartin Road at the northern end and his platoon patrolled the

immediate area surrounding Dunboyne Park including Springmartin Road. He said other members of 2 Queen's were deployed along Springmartin Road to his right.

[387] Soldier K also said that although the area was tense nothing happened until about 2100 hours when a number of gunmen positioned in various flats within the Moyard complex started firing at them and the other soldiers along Springmartin Road. He said there were a number of machine guns as well as high velocity rifles being fired at them from the flats. He then said he moved his platoon forward onto the Springmartin Road where they took up positions overlooking the Moyard estate. They then, under his instructions, began engaging the gunmen in the flats. He said prior to actually shooting he had issued a verbal warning over a loud hailer for people to get off the streets and move from their houses. He said he must have given this warning at least six times. He said his platoon then opened fire at the gunmen with the fire being controlled by him. He said he positioned two of his soldiers on the roof of the school off Springmartin Road opposite Blackmountain Parade. These two soldiers were also engaging the gunmen firing at selected targets. He said this main gun battle lasted for about 60 minutes during which time he estimated that many hundreds of rounds were fired at their position and that his platoon fired about 100 rounds of 7.62 and 9mm fire at the gunmen. This ciphered soldier said:

"I personally fired 10 rounds of 9mm from my pistol at a gunman positioned at the corner of the house 660 Springfield Road. This gunman was armed with a high velocity rifle. At the time I was positioned behind a small wall at the junction of Dunboyne Park and Springmartin Road. During this gun battle we also came under fire from a group of Protestant gunmen who were positioned behind us in the estate. I fired 4 rounds of 9mm from my pistol at one of the Protestant gunmen who was positioned on the high ground in Highfield Drive. One of my shots struck the gunman in his leg or thigh.

These gunmen then stopped firing. A number of shots from the Protestant gunmen were fired into the Moyard Crescent area.”

[388] He could not say where they were firing at or what targets they were aiming for. He said he would estimate that there were about three of the Protestants firing into Moyard but this stopped as soon as he shot one of them in the leg. He said they were unable to carry out a search for the injured man because they were still being fired at from Moyard flats and during the gun battle other soldiers positioned to his right were also firing at the gunmen. He said he could not see what they were firing at, none of the platoon were injured during the gun battle. He said that throughout the evening they had the odd shot fired at their position from Moyard estate. About 2300 hours that night, 9 August 1971, he said he was approached by one of the residents of the Highfield estate and asked if we wanted any help as he could get hold of a number of armed men to assist. He said, “I told them that I would shoot any person I saw that night, armed with any weapon.” He went away according to this witness and he did not see him again. The witness concluded by saying:

“I did not know that a priest had been shot during the gun battle. I certainly did not see him, nor did any of my platoon report the presence of a priest. At the time of the gun battle we were accompanied by two uniformed members of the RUC.”

This is dated 22 February 1972 and taken at the barracks in Werl, West Germany.

[389] It is clear that Soldier K gave evidence at the inquest of Father Mullan because there is a handwritten note to the deposition which reads as follows, as best as can be transcribed:

“Carswell (Counsel): Apart from this I did not make a statement until last February. I did not get any messages from Father Mullan or Father McGuckin that evening. I do not believe my men shot Father Mullan.

Hutton (Counsel): About 9pm I was walking from the ... of the school on the Springfield Road. I saw the flashes of firing from 13 and 21 Moyard Park.”

[390] Another statement was taken from Soldier L. who said that he was a member of Queen’s Regiment stationed in Germany. He said that during his time in Ulster he was a Platoon Sergeant of Platoon Company 3 Queen’s under the command of G. Around 2000 hours on 9 August 1971 his platoon arrived in Springmartin estate of Belfast having been tasked to observe the Moyard estate from Springmartin Road. He then referred to the deployment of vehicles and said that the platoon was observing the Moyard estate. He said in this statement:

“We remained in this position until about 2100 hours. During this time there was movement and noise from the Moyard estate but no weapons being fired. Around 2102 hours all hell was let loose from the estate. About 12 weapons of the machine gun type and high velocity rifles were fired from within the estate at our other soldiers deployed at the south end of Springmartin Road.”

[391] He said he heard the distinctive sound of a Thompson submachine gun. He said he heard their troops returning the fire into the Moyard estate. He said he moved his platoon forward and took up defensive positions in the Springmartin flats. He said, “I deployed soldiers on the top floor of the flats and others in fire positions overlooking the Moyard estate.” He said from his position he could see flashes of at least 12 weapons positioned in the flats and both sides of Moyard Park at

the side of the patch of waste ground east of Finlay's works. He said he personally did not see any gunmen, but a number of his men did and returned the fire into the Moyard estate. He said they fired about 25 rounds of 7.62mm into the estate across the waste ground into the flats. The gun battle lasted about one hour and it was during this time they were joined by 2 Para who moved down through Springmartin flats towards the Moyard estate. He said, "I recall having a conversation with a Sergeant Major from 2 Para. The paras actually moved forward through our position and engaged the gunmen who were still firing. I did not see any gunman being hit and I saw no sign of any persons moving through the waste ground north of Moyard Parade." He said he saw no priest or any person waving a white cloth.

[392] This witness also clearly gave evidence at the inquest because there is a transcript of some additional questioning of Soldier L which reads:

"Cahill (Counsel): I gave my first statement in February last. I discussed what had happened the next day with my colleagues. I did not get instructions to fire at anything. I saw nothing. I did not see Father Mullan shot and none of my men reported his death. Nor was I told that a man with a white shirt had been shot. We claimed no hits that night.

Hutton (Counsel): The 12 flashes of gunfire. I saw some in the area of 80 and 82 Moyard Park and it was between 8:45 and 9:15pm."

[393] There is also a ciphered statement from Soldier M. This referred to around 2000 hours on 9 August being deployed in the Springmartin area. This witness said, "we actually deployed from our vehicles in a school on the Ballygomartin Road and then moved forward on foot into Springmartin Road where I saw members of the Parachute Regiment deployed." This witness said after this that he took up a

position in the rear upstairs bedroom of No. 110 Springfield Park which gave an uninterrupted view of the Moyard estate. He said he had been positioned about one hour during last light but saw no movement in the Moyard estate. About 2100 hours he saw a group of men move forward from Moyard flats towards the houses in Springfield Park. At this point the witness said, "I could not see if the men were armed. The group reached the houses and I next saw them running back into the flats. Within minutes of their return, firing commenced from Moyard flats towards the Springmartin Road. There were a considerable number of weapons being fired amongst them. I heard the distinctive sound of a Thompson machine gun."

[394] He said that the military deployed in Springmartin flats returned fire as did the military deployed along the Springmartin Road. He said he was armed with an SLR 7.62 and fired no rounds as he was not in a good fire position and he could not see any gunmen firing from the waste ground north of Moyard Park. There was no movement of civilians during the gun battle except them firing at soldiers on Springmartin Road. He said by this time it had become rather dark but he could see the gun flashes of the weapons positioned in the Moyard flats. A number of gunmen were positioned in the flats just south of Finlay's works that overlooks the waste ground. He said that during the gun battle the majority of the rounds fired by the gunmen and the military personnel passed across the waste ground north of Moyard Park. He said there were hundreds of rounds fired and any person, armed or not, caught in this crossfire would no doubt have been killed. He said he personally saw no person on the waste ground as his attention was concentrated on the gunmen in the flats. Throughout the remainder of the night and early morning until first light he remained in position and during this time there was only sporadic firing at the end in the area of the flats.

[395] Again, this witness clearly gave evidence and there is a transcript of the additional evidence given as follows, as best as can be taken from the handwritten note:

“Carswell (Counsel): I gave my first statement in February this year. It was the first statement I made. I was six weeks in Northern Ireland. No one told me what was alleged to have happened (when I was making my statement). I remember moving into the house at about 8:30pm and seeing a group of men, but I only got a glimpse of them and could not see if they were armed. They came from the direction of 80 or 82 Moyard Park, when they returned the firing came from this area of the flats. I could not see the muzzle flashes then. I could not see the waste ground.

Hutton (Counsel): I did not see any women or children with a group of men ... and being a part ... or Mr Clarke.”

vii. Additional military evidence, including machine gun and mortar platoon

[396] Some additional military evidence was given from Support Company machine gun platoon which I make mention of. The first witness was M152 who gave evidence on 15 October 2019. He had provided a statement to the Coroners Service in July 2018 and was interviewed by HET on 17 November 2010. That HET note referred to M152 being a member of Support Company 2 Para under the command of Major M12. He stated to HET that he was involved in the arrest and detention of persons on internment day but he said he was not involved any further in relation to events. He said he was on standby duty, although other members of his section may have been involved. He gave some other detail of members of his platoon and then he referred to another incident. In his statement he said that the names given in relation to other members of Support Company were those provided by the HET team and he could not confirm that those people were with him at the time in question.

[397] So, he said that he was in Northern Ireland at the relevant time and he recalled internment with which he was involved. He remembered one arrest. In his statement he said he could not remember what they did after conducting the arrests but on the evening of 9 August he said he recalled being sent to break up a riot which had started on the Falls Road and had moved up to Mackie's Factory. He said there were a number of them from Support Company who were called out to deal with it and there was a lot of stone throwing and bottle throwing although by the time they arrived it had largely petered out. He said there was looting going on, people were coming out of supermarkets with big boxes of food and drink. Wires had been erected across the road by Republicans and he said "we had to knock those down." He said he did not fire any shots on that night and his role was to protect Mackie's Factory. He said he recalled being at Mackie's Factory all night trying to clear things up. He said periodically, a Land Rover would be sent down and two soldiers would go back to Paisley Park for a break and to be replaced by other soldiers. He said late that night around 2300 or 2400 hours he could hear shooting that he believed was coming from Ballymurphy which lasted perhaps half an hour and was rifle based. He said two of their men came down from Paisley Park and told them that the rest of Support Company had gone to Ballymurphy in support of the soldiers that were there because the Henry Taggart Hall was under attack. He said he stayed at Mackie's Factory and he found out on the morning of 10 August that people had died in the shooting at Ballymurphy. It was in the early evening of the following day that he left Mackie's and returned to Paisley Park. Other than that, M152 said that there was no debriefing or other information given in relation to this incident.

[398] M222 also gave evidence on 10 and 11 September 2019. He also described a public order situation. He said his section stayed in Paisley Park. He said there was a call to go to Springfield Road which was received and he referred to being in the radio room at Paisley Park but he did not know who else was present. He said after he was in the radio room he was out and down on the Springfield Road and referred to the factory being on fire. This witness was not very sure of times in relation to his attendance at the factory but he said he went with M223 who was the Section

Commander. He did not make any RMP statement at the time. So he referred to the initial incident in which there was an arrest and a deployment later and he had some knowledge of being in the radio room in relation to communications.

[399] He was not able to assist with what had happened in the Springmartin flats; he said he was not familiar with those and he certainly was not familiar with the ciphered statements or the killings that took place on the day in question. He made the point that there were probably up to 60 soldiers at Paisley Park at any one time.

[400] A statement from M154 was also read into the inquest and I heard evidence from M137 on 3 September 2019. In his statement to the inquest dated June 2019 this witness said that he thought his 1971 tour to Northern Ireland was shortly after he had been promoted to sergeant and it was likely that he was with Support Company based in Mortar Platoon as that was the only platoon he was with in Support Company. He did recall in his statement being involved in internment and arrest operations. He said he did not remember what happened the rest of the day and he gave an account to the HET in relation to events. He did state in that account, which was given on 17 March 2011, that he was aware that several people had been killed at the time and that one of those persons was a priest. He stated that it was rumoured that the priest had been collecting weapons from the fallen in the area and was taking them back. He also said that it was believed that more gunmen had been killed that evening and that their bodies had been hidden in drains or sewers and were found some weeks later. In relation to this HET account at paragraph 14 of his first statement the witness said he was not shown this note at the time.

[401] The account stated he heard of members of Queen's Regiment being on a roof of a school and being subject to sniper attacks. He said in making that comment he was stating that he had heard that there was a sangar on top of a school which was constantly being shot at by the IRA. He said his recollection was that the IRA had built a sand- bag partition about 100 metres up the road from the school and that the Queen's Regiment had put a tailor's dummy in the sangar which attracted pot shots

from the IRA almost every night. He said, "I do not know which roof the Queen's Regiment were on I did not make that comment with reference to a particular day or event it was simply a statement of my recollection which was itself based on hearsay." He said he recalled picking it up from other soldiers in the barracks. He also said in the HET account that he noted a priest being killed; he said "that was only a rumour which I heard all those years ago." He had no direct knowledge of events. Similarly, the comment regarding bodies being found several weeks later was also simply a rumour that he had no knowledge of.

[402] M137 made a second statement dated 8 August 2019 to deal with events at 219 Springfield Road. He referred in paragraph 13 of his first statement to having a memory of being at 219 Springfield Road. He said he recalled that address. However, he said on reflection he did not believe it was during internment or on 9 August 1971. He referred to a memory that when he was at 219 Springfield Road a double decker bus came driving down in a southerly direction towards the Springfield Road Police Station and Falls Road with two gunmen in it who were firing at his position. He said he was not injured and neither were the other soldiers and he did not fire his weapon although other soldiers from a nearby sentry box did. He said the gunmen were not injured and after the bus went past his position it stopped and the gunmen ran away. In relation to the internment issues he referred to an internment statement from the RMP which had been provided to him in his name. He said he did not recall making the statement and he did not recall the details contained within it. However, there was nothing that appeared to be inaccurate. That statement referred to an arrest in which M137 was involved along with other soldiers.

[403] M194 provided a statement of 29 August 2018. He was a captain in 2 Para A Company who said that he was in the area on 9 August 1991. The relevant part of the statement which is of interest in this incident relates to 9 August 1971, whereby he said on the afternoon of 9 August 1971 he was briefed by Major M1074 to go and support Battalion Headquarters who were based at Springfield Road Police Station.

He said he remembered that at that time the three Platoons in A Company were deployed all over the city but he did not know if they were in the Ballymurphy area. He was briefed to take two stripped down Land Rovers and accompanied by a driver and six men to go to the Springfield Road Police Station. He said at this point it was getting dark, it was around 2200 or 2300 hours. They were briefed to join Support Company by the Battalion Ops Room, which was based in the Highfield area of Belfast. He said the job was to evacuate some Catholic or mixed religion civilians from the area of Springfield Park and take them to the Clonard Monastery. He said the trouble was occurring because the Protestants were trying to evict the Catholics from their homes and move their own people in and they were there to evacuate them and take them to safety.

[404] He said it was somewhere along Springfield Park they met up with troops who he thought were from Support Company and the area they were in was on higher ground and so overlooked the Henry Taggart Hall. He said he remembered there were some ruined buildings in the area. He said when they got there, there was incoming fire, he presumed from the IRA, and he remembered seeing that the shots were coming from an area of uncompleted flats or buildings. They were essentially empty shells of buildings. He said there was a mixture of high and low velocity and that the IRA had mainly Second World War American weapons. He said neither he nor his soldiers fired a round over that 24- hour period although they were fired at. Their job was essentially to evacuate women and children which they did. He said they evacuated around 14-16 women and children to take them to the Clonard Monastery.

[405] The witness then referred to shooting on the Kashmir Road when they were transporting these people and he thought that was from a Thompson submachine gun. He said they handed the passengers over to the monks and then patrolled back on foot to the Battalion Headquarters at Springfield Road Police Station and at about 0100 hours they went back to their base at Sunnyside TA Centre across the river. He also referred to an incident when travelling down the Falls Road around the area of

St Mary's Training College when they hit a metal wire that was stretched across the road which broke off the wire cutter on their Land Rover but no one was hurt. This was recorded in the logs for 2 Para at 0150 hours.

[406] I also received a statement from M37 who did not attend the hearing as he brought an excusal application. However, I required some clarification from him which was provided via lawyers. In particular, it was put to this witness that he may be Soldier J. He did not accept that. He referred to his postings and stated that in 1971 he was part of the 2nd Battalion of the Queen's Regiment and a Platoon Commander in A Company although he did not recall which Platoon he led. He thought he was a Platoon Commander from June 1970 onwards. He referred to a note from the HET and said that this was not correct insofar as it stated that he had remembered hearing about the death of Father Mullan. He said, "I did not know Father Mullan and his name was not familiar to me until I saw in the media some time later. I had never heard of him other than from the television." He was adamant that he was not in Ballymurphy in 1971. He said that the events that were recounted in the HET note were in fact in 1970 and not in 1971.

viii. Contemporaneous military records/logs

[407] To complete the picture I now refer to the contemporaneous records which I have examined. Firstly, there are log reports of what was happening on the date in question that I want to examine. Secondly, there are some other documents from the time which I have been referred to. Thirdly, I intend to complete an overview of the ciphered soldiers' statements, some of which I have already referred to. Fourthly, I have asked to see any contemporaneous material from the time including newspaper reports and death notices.

[408] I start with the relevant logs. In particular, I have been referred to the 2 Para log, the 39 Brigade log and the Watchkeeper's log. These events obviously happened in the evening of 9 August 1971. I have also examined what was happening on the

morning of 9 August 1971 as that is relevant in the overall context of events in Springfield Road. There are a number of entries which indicate that there was activity between the residents of Springfield Road and Springmartin. I examined some of these as follows. At 0540 hours in the 2 Para log Serial 12 on Sheet 1 it is noted that 2 Para Support Company was dealing with a crowd of about 100 people blocking the road in Springfield Avenue. The crowd was stoning military movement. At 0555 hours 2 Para reported 5 shots being fired from a Thompson submachine gun at Leeson Street, close to the 2 Para Headquarters at Springfield Road RUC Station. This was recorded in 39 Brigade log Sheet 4 Serial 47. At 0620 hours 2 Para Support Company was dealing with two nail bombs thrown at one of its vehicles at the Springmartin/Springfield Road interface.

[409] In the 2 Para log between 6.00am and 7.00am it was recorded that 2 Para Support Company attended Mackie's factory where nail bombs had killed the Mackie's security guard, William Atwell, and set the factory on fire. Between 7.00am and 8.00am again in the 2 Para log soldiers from 2 Para Support Company were subjected to small weapons and automatic gunfire in the Kashmir Road area, which is off the Springfield Road near Mackie's Factory. It was reported in the 2 Para log Serial 44 Sheet 3 that by 8.00am 2 Para Support Company had discharged 28 baton rounds, 5 CS gas canisters were used and 2x7.62 SLR rounds. At 8.20 again in 2 Para log Serial 47 Sheet 3 in Forfar Street, which is off the Springfield Road, the Officer Commanding 2 Para Support Company (M12) came under fire from small arms and fired one round in return. At 0849 hours which was recorded at Serial 58 Sheet 4 again M12 informed 2 Para HQ that his sniper was engaging a sniper who was firing from a window in Bombay Street and that the 2 Para sniper had fired 4 .303s. Bombay Street is off the Springfield and Falls Road.

[410] By 10.10am according to Serial 73 and Sheet 5 of the 2 Para log the fire at Mackie's was tidied up and the streets off Springfield Road and 2 Para Support Company's area were quiet. Support Company was reported to be in the process of helping a Roman Catholic family to move out of a particular street and sought

confirmation from 2 Para Headquarters as to its next task. 2 Para Headquarters asked Support Company to continue to look after the same area of Springfield Road between Mayo Street and Springfield Avenue. It was reported in the Brigade log Sheet 14 that before 12 noon 2 Para HQ had called in water cannon which was being sent to Paisley Park. There were further reports in the afternoon of 9 August 1971 as follows. By 1205 hours a 2 Para situation report to 39 Brigade confirmed that the security forces had fired approximately 52 rounds by that point in time. This is Sheet 17 Serial 179. According to serials in the 2 Para log between 12 noon and 1.00pm Support Company dealt with an explosion in Kashmir Street and houses being set on fire in Mayo Street. By 1235 hours, as the petrol bombing at Henry Taggart Hall continued, permission was sought from the Chief of Staff to use the water cannon and dye, this was in 39 Brigade log Sheet 17 Serial 185.

[411] The logs also recorded the arrival of 3 Queen's B Company into this area. At 1350 hours according to the 2 Para log Serial 112 Sheet 7 Y2 (which is the call sign for 3 Queen's B Company) report to 2 Para HQ that "B Company 3 Queens has arrived in Paisley Park." A corresponding entry in the 39 Brigade log Sheet 19 Serial 206 recorded 2 Para having informed 39 Brigade that "Queen's Call Sign have now joined us." According to 39 Brigade log Sheet 23 Serial 230, by 1515 hours 2 Para reported to 39 Brigade that from 0400 hours that morning it had fired 258 baton rounds, 77x7.62mm rounds, 5x9mm rounds, 3x.303 rounds and had suffered one casualty.

[412] At 1542 hours according to Serial 121 of the 2 Para log Queen's Company informed 2 Para HQ that there were two gunmen on the roof of Corry's Wood Yard. At 1603 hours according to Serial 124 Sheet 7 of the 2 Para log, 2 Para Support Company informed 2 Para HQ that Support Company could not get to them (apparently the men in Corry's yard due to stoning and petrol bombs). At exactly the same time, according to Serial 125 Sheet 7, another unit from 2 Para Support Company was heading towards Springfield Road RUC Station, so dealing with a different incident. At 1708 hours, according to Serial 142 Sheet 8 of the 2 Para log, Support Company informed 2 Para HQ of barricades at Springhill and Springfield

Road. At the same time another group of Support Company soldiers reported to 2 Para HQ about smoke in Woodvale. There were further reports throughout this early evening from 3 Queen's B Company in relation to matters in the general area, including a report at 1810 hours of a fire engine near Kirk Street off Springfield Road – that is Serial 150 Sheet 8. At 1853 hours 2 Para reported that there were 300 people gathered in the Ballymurphy area, and the crowd in the Springmartin area was building up. This is 39 Brigade log Sheet 29 Serial 283.

[413] The evening of 9 August 1971 was referred to in the following records. At 1905 hours, according to 39 Brigade log Sheet 9 Serial 155, 2 Para HQ informed Y29 (the Officer Commanding 3 Queen's B Company) and V59 (the Officer Commanding 2 Para Support Company) and V29 the Officer Commanding 2 Para B Company) that the Commanding Officer (then Lieutenant Colonel Howlett) had arranged an armoured column to relieve 2 Para B Company. At 1925 hours, according to Serial 156 Sheet 9 2 Para log, 2 Para B Company (the company based in Henry Taggart/Vere Foster) reported four incoming shots aimed at Henry Taggart reported to come from the Divismore Park. At 1930 hours the RMP reported on five civilians who had been shot and five soldiers who were each in the Royal Victoria Hospital having been shot. This is 39 Brigade log Sheets 31 and 32 Serial 294. At 2015 hours, according to Serial 158 Sheet 9, 2 Para Support Company reported a large barrier being erected in Springfield Avenue and at 2040 hours Serial 164 Sheet 9 Support Company soldiers reported that barricades at Springfield Avenue were going to be set alight.

[414] At 2030 hours, according to Serial 161 Sheet 9, 2 Para B Company informed 2 Para HQ that approximately 150 people had come along Springfield Road to what was described as an interface to intercept Protestants who had crossed the peace line. 2 Para B Company said it used water cannon and CS gas to break up the crowd it was referring to. There was a corresponding entry in 39 Brigade log at 2030 hours which is Sheet 35 Serial 311. Then at 2031 hours, according to Serial 162 Sheet 9, 2 Para HQ recorded the RUC informing it that Roman Catholics had infiltrated into

the Springmartin area and that armed men had also been seen. At 2045 hours, according to Serial 165 Sheet 9, 2 Para Support Company was recorded as informing 2 Para HQ that a civilian in Support Company's location had been shot and wounded by a sniper. The sniper's location was said to be at the top of Springmartin/Ballygomartin and in response Support Company informed HQ that it had sent Ferret scout cars.

[415] Further entries in the same 2 Para log suggested that there was a further alert to this issue. At 2045 hours, according to the 2 Para log Serial 165 Sheet 9, B Company informed 2 Para HQ that it had heard shots in the Ballygomartin area at the junction with Springmartin and at 2047 hours, according to Serial 167 Sheet 9, 3 Queen's B Company informed of 2 Para HQ that a Protestant had been shot in Ballygomartin. In a subsequent radio message recorded at 2240 hours, which is Serial 209 Sheet 11 from the 2 Para log, Support Company confirmed that the person shot in the back during the interface shooting was a 16-year-old boy called Jay Vaughn. At 2045 hours, 2 Para HQ passed on to 39 Brigade that a Catholic sniper had shot a Protestant. This was in 39 Brigade log Sheet 36 Serial 318.

[416] I observe that at 2048 hours in 39 Brigade log Sheet 36 Serial 320, there was communication from a Father Murphy recorded as follows: "I have just heard that there is a confrontation between Prots and Cats of 200 on each side of Springmartin." Then at 2057 hours, according to Serial 171 of Sheet 9, Support Company was recorded as having informed 2 Para HQ that Support Company had received a telephone call from the Dunboyne area which claimed that the area was under fire. At 2104 hours, Serial 173 Sheet 9, 2 Para Support Company was recorded as having informed 2 Para HQ that a man had been caught with a rifle in Ballygomartin and that he came from Ballymurphy. The entry recorded, "There has been a lot of shooting in the area." (There is an arrest report concerning a Harry McNulty of 59 Springfield Park in relation to a shotgun - that arrest having taken place by Private M68 of 3 Queen's B Company recorded at 2045 hours.)

[417] At 2110 hours, according to Serial 178 Sheet 10, 3 Queen's B Company was recorded to inform 2 Para HQ that there was heavy firing towards Henry Taggart from a flat to its north east. At 2112 hours, according to Serial 179 Sheet 12, 2 Para Support Company informed 2 Para HQ that heavy shooting was occurring in Dunboyne Park and a similar entry was recorded at Serial 188 Sheet 10 for 2135 hours. At 2120 hours, according to Serial 182 Sheet 10, 2 Para Support Company reported to 2 Para HQ that there was heavy firing in Moyard and at 2125 hours 39 Brigade received a call informing them that the caller had heard reports that armed Protestants were moving down from Springmartin towards Ballymurphy. The caller was told that there were troops in the area. This was reported in 39 Brigade log Sheet 37 Serial 335. At 2135 hours, Serial 187 Sheet 10, 2 Para Support Company reported to 2 Para HQ that "at least one more wounded civilian in Moyard has been taken into the flats by civilians." At 2136 hours, according to Serial 189 Sheet 10, 2 Para Support Company reported to 2 Para HQ that a 3 Queen's B Company soldier was still missing, and the Support Company soldiers were moving round towards Springhill Avenue to see whether they had been shot. At 2140 hours, 2 Para supplied 39 Brigade with a summary of events in 39 Brigade log Sheet 38 Serial 340.

[418] At 2148 hours, Serial 194 Sheet 10, reports that 3 Queen's B Company stated to 2 Para HQ that there were 200 people in the Highfield estate breaking up houses and causing other damage. At 2155 hours, according to Serial 196 Sheet 11, 2 Para Support Company reported to 2 Para HQ a phone call received from Corry's Wood Yard which indicated that two soldiers in the wood yard were under fire from Springhill and were pinned down. At 2156 hours, according to Serial 197 Sheet 11, 2 Para Support Company reported to 2 Para HQ that there was still a sniper in the Moyard area but that Springmartin was now quiet. At 2158 hours, according to Serial 198 Sheet 11, 2 Para Support Company reported to 2 Para HQ that from the reporter's vantage point on the Springfield Road there was one person fairly certain to be dead and three wounded at what was described as Henry Taggart. At 2200 hours RMP provided 39 Brigade with a list of the then known casualties in Belfast -

this is 39 Brigade log Sheet 39 Serial 351. At 2212 hours, according to Serial 203 Sheet 11, another part of Support Company was dealing with snipers on the top of Mackie's roof between 2225 and 2230 hours. According to the 2 Para log Sheet 11, Support Company provided 3 radio messages as efforts were made to get ambulances through to Henry Taggart/Vere Foster. There was an indication at this stage that a man had died.

[419] At 2242 hours, according to Serial 211 Sheet 11, 3 Queen's B Company were recorded as having informed 2 Para HQ that they had fired 12x7.62mm rounds, 2x9mm rounds and 2 baton rounds. At 2253 hours, according to Serial 213 Sheet 11, a civilian informed 2 Para HQ that Father Mullan was lying dead in a field behind Moyard Parade. At 2300 hours, according to Serial 214 Sheet 11, of the 2 Para log Support Company passed on an RUC report about a Protestant family being victimised in Kashmir Street and the Officer Commanding of 3 Queen's B Company was asked to investigate as a result of which 3 Queen's B Company came under fire. At 2300 hours 2 Queen's reported to 39 Brigade that 2 Queen's A Company (G1) were at their destination, that is Paisley Park. Between 2300 and 2400 hours, according to Serials in Sheet 12 of the 2 Para log, Support Company provided a number of reports in respect of incidents around Mackie's Factory. At 2312 hours, according to Serial 195 Sheet 12, 3 Queen's B Company came under fire in Mayo Street. At 2320 hours, according to 39 Brigade log Sheet 43 Serial 394, 39 Brigade received another call from Father Murphy. This time Father Murphy explained that Father Mullan may not be dead, only wounded, he was said to have left his home at 45 Springfield Park to tend to a wounded man in a field above Moyard Park by a printing works, he was said to need first aid and 2 Para were tasked to check.

[420] At 2355 hours 39 Brigade was informed by 2 Para that it was being reported on the BBC news that Father Mullan was ill in hospital, that is 39 Brigade log Sheet 44 Serial 402. At 2359 hours, according to the 2 Queen's Northern Ireland Record of Tours 1971-1988, 2 Queen's A Company took over responsibility for part of the Springmartin estate. The records stated: "there had been a certain amount of

shooting just prior to their arrival.” The record went on to say that the Company HQ was established in some flats that had been vacated by 2 Para snipers about an hour before, the flats were said to overlook the spot where a priest had been shot dead. This was the first deployment of 2 Queen’s A Company. There are further records of activity involving Support Company around Mackie’s Factory and Clonard between 12 and 0300 hours in the 2 Para log Sheets 1 and 2 for 10 August 1971. At 0043 hours 39 Brigade was informed that a civilian had entered the RUC Station on the Springfield Road to confirm that Father Mullan was dead. At 0200 the RMP informed 39 Brigade that Father Mullan was ‘lying- in- state’ at 48 Moyard Park, this is 39 Brigade log Sheet 4 Serial 40. At 0210 hours, according to 39 Brigade log Sheet 4 Serial 44, 39 Brigade was informed that a Catholic priest had visited Vere Foster to confirm he had administered the last rites to Father Mullan.

[421] At 0440 hours, according to 39 Brigade log Sheet 11 Serial 98, 39 Brigade was informed by 2 Para that in the RVH were 26 casualties; there were 7 soldiers and of the 16 civilians four were dead on arrival and one died on admittance. At 0612 hours, according to Serial 32 Sheet 3 of the 2 Para log 2, Para B Company reported to 2 Para HQ that a man remained on a balcony of Moyard flats and he was still there as he was dead. At 0613 hours, according to Serial 33 Sheet 3, 2 Para B Company informed 2 Para HQ that a man had reported that there were three bodies in a house in Moyard Crescent, one of them was a priest. The first recorded radio message from 2 Queen’s A Company to 2 Para HQ was at 0626 hours on the morning of 10 August 1971 according to Serial 34 Sheet 3. At 0728 hours, 2 Queen’s A Company informed 2 Para HQ that some men had placed a cross and a black flag on open ground which was in front of their location at Springmartin flats. At 0810, according to 39 Brigade log Sheet 14 Serial 119, the SIB informed 39 Brigade that Father Mullan was in the RVH but was shot in the back and was dead and Frank O’Neill (the name given in error) was dead in the RVH having been shot in a number of places and that a third body was still on the balcony.

[422] At 1000 hours, according to Sheet 3 Serial 48, the Commanding Officer of 2 Para was to meet the Directors of Mackie's. At 1345 hours, according to Serial 67 Sheet 4 of 2 Para log, on 10 August 1971 2 Queen's A Company were recorded as reporting to 2 Para HQ that Protestants and Catholics from Springfield were moving out as militant Catholics from Ballymurphy had threatened to burn them out. At 1250 hours, according to Serial 70 Sheet 4, 2 Queen's A Company reported to 2 Para HQ that a whole street of Springfield Park was moving out. They reported again at 1355 hours and they were still involved at 1455 hours and at 1700 in relation to this issue of families moving out. At 2130 hours, according to Serial 174 Sheet 8 2 Queen's A Company were recorded as informing 2 Para HQ that they had come under fire at close range. At the same time, 2 Para B Company were recorded as reporting that Vere Foster School was under fire and 2 Para Support Company were recorded as reporting that the sentry was under fire at a primary school.

[423] At 2146 hours, according to Serial 181 of Sheet 8, 2 Queen's A Company were recorded as informing 2 Para HQ that the gunfire was coming from behind schools in the Springmartin area. Again, a report was made of this at 2149 hours. There is further information about the involvement of 2 Queen's A Company on the evening of 10 August 1971 recorded in the 2 Queen's Northern Ireland record of tours 1971-1988. This record states that 2 Queen's A Company had a relatively quiet day with very little sectarian trouble, save for finding some incendiary devices. However, the record said at 2145 hours 1 Platoon of 2 Queen's A Company, said to be slightly detached from the rest, came under sniper fire. The record said that 1 Platoon fired 31 7.62 rounds and 15 9mm rounds. 1 Platoon suffered no casualties and there were no confirmed kills. At the same time 2 Queen's A Company, HQ Company and 2 Platoon were also fired upon however they only returned one round. At 2152 hours, according to Serial 183 Sheet 8, on 10 August 2 Para B Company informed 2 Para HQ that it had come under fire from Divismore Park but was not returning fire as it was not effective.

[424] At 2159 hours, according to Serial 185 Sheet 8 of the 2 Para log 2, Para HQ informed B Company in respect of the Platoon in Ballymurphy that 2 Queen's A Company was to cease fire on orders. At 2254 hours, according to Serial 201 Sheet 9, 2 Queen's A Company informed that a sub-unit was under fire from Springhill Avenue. At 2324 hours, according to Serial 207 Sheet 9, the Officer Commanding 2 Para Support Company M12 confirmed that his sub-units had fired 10 rounds of 7.62mm ammunition. By 2332 hours, according to Serial 209 Sheet 10, 3 Queen's B Company confirmed that it had discharged 17 rounds of 7.6mm and 3 rounds of .303.

[425] There is also a Watchkeeper's log, which I set out in relation to the activities of the various companies as follows:

Table - Watchkeeper's Log 9 August 1971

Serial	DT G	To	From	Event	Action
139	1650	CC	Tac	Brief Sitrep A - All quiet, 300 on M1 B - Crown 100 HT - Neptune Store VF 81 petrol bombs 41 rubber 1 x 7.2 35 CS Cas Nil D - All quiet Sp - All quiet Tac - Barricades	
	1700	Tac	Sp	Barricades - Springhill/Springfield Rd. Small one 150yds up Springhill Rd. No aggro.	
144	1720	Tac	Sp	Lady in [redacted] said Dunboyne Park to be burnt tonight.	
145	1729	Tac	Sp	Smoke coming from Woodvale Rd church area.	
147	1737	Tac	Sp	Occupants have left Blue Transit in Collins St	Police NFA
149	1800	Tac	CC	A - All quiet B - Stoning continuing Springfield Rd Barriers 70m SSW of HT 120, further on D - Falls clear Sp - Are quiet. Warwick and Mayo everyone moved out to own areas	
158	2015	Tac	Sp	Large barrier being erected in Springfield Ave	
159	2016	Tac	Sp	Search light team avail at Paisley Park if required	
162	2031	Tac	RUC	RCs infiltrated into Springmartin area. Armed men	

				also seen.	
164	2040	Tac	Sp Coy	Inflammable material being put in front of barriers in Springfield Ave	
165	2045	Tac	Sp Coy	Civy in Sp Coy Loc wounded by sniper. Ferrets sent to sort it out. Sniper's loc at top of Springmartin/Ballygomartin.	
166	2045	Tac	B Coy	Shots, Ballygomartin area at junc Springmartin	
167	2047	Tac	Queens Coy	Shot prod in Ballygomartin	
169	2051	Tac	Queens	1 PARA Coy ready to move from Comd of 3 Queens Andersonstown to Comd of 2 PARA Springmartin Interface Area	
171	2057	Tac	Sp Coy	Telephone call from Dunboyne - claims that area under fire	
172	2100	Tac	B Coy	Second man shot at Henry Taggart	
173	2104	Tac	Sp Coy	Man caught with rifle in Ballygomartin - he came from Ballymurphy. There has been a lot of shooting in this area.	
174	2105	Tac	B Coy	5 possible kills at Ballymurphy.	
176	2108	Tac	B Coy	Ref shot locals - prob 4 wounded, 1 woman dead.	
182	2120	Tac	Sp	Hy firing in Moyard by my sub unit and Queens Coy in fire posn on Springmartin.	
187	2135	Tac	Sp	At least one more wounded civilian in Moyard has been taken into the flats by civilians.	
188	2125	Tac	Sp	Hy firing against V71 (A Coy) in Dunboyne Park.	
189	2126	Tac	Sp	Missing man of Queens still missing. Am moving towards Springhill Ave to see whether he has been shot.	
194	2148	Tac	Queens	200 in Highfield estate breaking up houses and causing other damage.	
195	2150	Tac	B	Probably two people killed in Moyard flats judging by screaming and wailing within.	
196	2150	Tac	SP	Phone call from Corries timber yard. Under fire from Springhill 2 soldiers in here but pinned down.	
197	2156	Tac	SP	Still sniper in Moyard area but Springmartin area is quiet	
198	2150	Tac	Sp	1 fairly certain kill and 3 wounded at HT as seen from Springfield Rd.	
211	2242	Tac	Y2	We have fired 12 x 7.62mm 2 x 9mm and 2 x Baton Rds.	
213	2300	Tac	V5	A Mr [redacted] states that Father Mullan is being in a field behind Moyard Parade. He is dead.	
196	2325	Tac	RUC	Father Mullan has been taken to RVH	
244	1630		2 PARA	Crowd of 300 at Henry Taggart and Vere Foster - occasional stoning. Barrier in Cavendish St.	
244	1625		2 PARA	Report from Press that one man shot was [redacted].	

268	1755		2 PARA	SITREP - same as before - approx 90 petrol bombs thrown at Henry Taggart.	
269	1801		2 PARA	V1 all quiet. V2 intermittent stoning, 2 barriers. (1) 70m from Henry Taggart. (2) 120m from Henry Taggart. V4 Barriers on Falls quiet. C1 generally quiet. V5 in area Warwick/Mayo St evacuated, inhabitants have agreed to respect each other's area.	
270	1845		2 PARA	Ref area, no change - quiet except V2 area where increased stoning of H Taggart and Vere foster, continues, no petrol bombs for some times. Suspect they have run out of petrol.	
283	1853		2 PARA	300 in Ballymurphy area. M7 area and Springmartin areas building up. Shooting in Springfield Rd, 1 x shot a sentry. Shots heard in Pauton? St.	
290	1930		2 PARA	4 shots fired at sentry post Henry Taggart.	
293	1915	3 Queens	2 PARA	Had reports about Turf Lodge from reliable info. That some areas have been booby trapped and lots of people walking about with rifles P?? Area covered as suspect attack on Henry Taggart Hall soon.	
310	2045		2 PARA	<u>Springmartin Trouble</u> Cat sniper has hit Prot - taken to Paisley Park	
320	2048		Father Murphy	I have just heard that there is a confrontation between Prots and Cats of 200 on each side in Springmartin	
324	2102		2 PARA	Shot 2 men at Henry Taggart trying to recover bodies.	
325	2102		2 PARA	Now 3 bodies - not sure.	
326	2103		2 PARA	1 Cat + rifle at Springmartin Rd captured + 5 civilians killed.	
329	2110		2 PARA	Heavy automatic bursts at our loc from Moyard flat.	
340	2140		2 PARA	A vicious battle in area of Henry Taggart. Cats attacked firing shots, throwing stones etc. Cats also attacking prots in Springmartin. 2 PARA retaliated, large number of shots fired. At least 6 people have been hit. 1 has been recovered, there may be a dead woman lying on the road. 1 man (Cat) has been lifted, carrying a rifle in Springmartin area.	
394	2320	Father Murphy		Fr Murphy - say that Fr Mullan may not be dead only wounded. He left his home at 45 Springfield Pk to tend a wound man in a field above Moyard Pade by Printing Works. He needs first aid. 2 Para checking/	

[426] The other information that I have received from the time is a report of Operations of 2 Para. This was produced by M748 the Operations Officer who gave evidence to the inquest on 9 September 2019. The report referred to events in Springmartin on 9 August 1971 as follows:

“091400A B Company 2 Queen’s (Y2) (it is thought however this should be 3 Queen’s B Company) came under the command and took over Springmartin, Highfield and Mayo from SP Coy.

092000A Inter-factional confrontation built up at interface. Crowd of 300 Protestants at Springmartin.

092030A Y22, V59, V57 deployed to stop inter-factional confrontation and shooting in Springmartin Road. The firing was only seen to be coming from the Catholic side. As Y22 deployed near the horse shoe they were fired upon and saw a Protestant in the crowd hit by a sniper.

V59 and V57 also deployed in the Springmartin Road near its junction with Blackmountain Park. They became involved in a fire fight with approximately 12 snipers, 7 in Moyard flats and 5 in the open ground between the flats and Finlay’s Factory and in the open ground immediately east of the flats. 5 snipers were seen to be hit, 3 were carried by unarmed civilians into the flats, one was assisted to the flats and a fifth was abandoned, presumably dead on the open ground. The cas inflicted in the area were three, including the one killed to the north of the flats and two to the east of the flats. The action lasted approximately one hour, when fire from the gunmen gradually died out. Ten rounds were fired by Y22 and 70 rounds were fired by SP Coy. Witnesses Major (M12), Sergeant M29 BEM, 2 Queens.

CSM (M29) Sergeant redacted.

Note: During this incident it is thought the death of Father Mullan occurred. His death was reported soon after the incident but not confirmed until his body was recovered from Moyard Crescent by a civilian ambulance at 100725A."

[427] There was also a 2 Para report which was produced by Lieutenant Colonel Howlett and represented a factual summary of 2 Para's tour in Northern Ireland. This I have referenced when dealing with the evidence of Lieutenant Colonel Howlett in relation to Incident 2. The document dealt with the background to 2 Para's involvement in this area but not specifically in relation to the deaths of Father Mullan or Francis Quinn. I remind myself of what General Howlett said in his statement in relation to the planning and control issue:

"We had known for some time before the posting in 1971 that we were going to Northern Ireland; it was not a surprise tour. This meant we had time to concentrate our training on being an aide to the civil power, which included training on the rules of engagement and the yellow card. Every soldier had a yellow card and it was treated as very important."

[428] I note that in his statement General Howlett did mention that "as a second tour battalion with a short gap between tours we had a great deal of other training to do, including a large scale battalion air borne exercise just prior to coming out here. This meant that other than detailed recce little preparatory training was done."

ix. Ciphred soldiers

[429] I now turn to the evidence of the ciphred soldiers. A table of the ciphred soldiers has been helpfully prepared by the next of kin in closing submissions which I replicate here:

Cipher (Mullan Inquest)	Batt/Coy/Pl	Location	Date/place taken if known	Disclosed to Original Inquest
A	2 Para B Coy	Vere Foster School		Yes
B	2 Para B Coy	Vere Foster School		Yes
C	2 Para B Coy	Vere Foster School		Yes
D/M12	2 Para Supp Coy	Springmartin	24.2.72	Yes
E	2 Para Supp Coy	Springmartin		Yes
F	2 Para Supp Coy	Springmartin	25.2.72 Brecknockshire	Yes
G/M602	2 Queens A Coy	Springmartin	25.2.72 by M26	No
H	2 Queens A Coy	Springmartin from midnight on 9-10 August	23.2.72, Werl by D Boyd	Yes
J/M37	2 Queens	Springmartin – went with “O” to Springmartin to meet the OC and CSM of 2 Para Arrived at approx. 2120hrs remained until about 2215hrs	23.2.72, Werl by D Boyd	Yes
K	2 Queens	Springmartin	22.2.72, Werl by M26	Yes
L	Statement said 3 Queens assumed to be 2 Queens	Springmartin	22.2.72, Werl by M26	Yes
M	2 Queens	Springmartin	22.2.72, Werl by M26	Yes

N	2 Queens A Coy	Springmartin	22.2.72, Werl By M26	Yes
O		Statement missing		
P	2 Para Supp Coy	Balcony, top floor, Springmartin flats	13.3.72 Girdwood by M26	No
Q	2 Para Supp Coy	Balcony, Springmartin flats	12.3.72 Girdwood by M26	No
R	2 Para Supp Coy	Bedroom within Springmartin flats	12.3.72 Girdwood by M26	No
S	2 Para Supp Coy	Top floor, Springmartin flats	12.3.72 Girdwood by M26	No
T	2 Para Supp Coy	Balcony, top floor, Springmartin flats	19.3.72 Dunmore Pk by M26	
U/M1341	2 Para Supp Coy	Balcony, top floor, Springmartin flats	15.3.72 Carnmoney Factory by M26	No

[430] I have dealt with some of these ciphered soldiers in detail through the course of this consideration but I wish to give an overview of these statements in addition to what I have already said. In relation to the ciphered soldiers it appears that there are 18 ciphered statements. Two of these came from 2 Para B Company, nine of these come from 2 Para Support Company and seven of these came from 2 Queen's A Company. The first two from 2 Para B Company were taken on 28 August 1971 before 2 Para B Company ended their tour. These are the statements from those at Henry Taggart/Vere Foster School. The nine statements from 2 Para Support were taken between February and March 1972. The seven from 2 Queen's A Company were taken in 1972; six of those from West Germany and 1 from Wales.

[431] In October 1972 it is clear that the Officer in Command of 2 Para Support, M12 gave evidence to the inquest. A number of others appear to have given evidence from 2 Queen's A Company: that is Soldiers K, L, G and M. These appear to be the

only witnesses that gave evidence at the original inquest. It is also tolerably clear that no one from 3 Queen's B Company gave statements to the RMP during their investigation.

[432] I have already dealt with the statements from 2 Para B Company when dealing with that part of the evidence. This is the Company that was at Vere Foster School/Henry Taggart Hall and I did hear evidence from the key witness M45 who was the Officer Commanding. It is quite clear that he is a ciphered soldier thought to be Soldier B. As I have described in recounting his evidence he describes his soldiers returning fire at a gunman in 21 Moyard Park. Soldier A is clearly a soldier from 2 Para B Company who is placed in the sangar at the north east corner of Vere Foster School. This RMP statement was completed on 11 August 1971 taken by M26. Soldier A described being with another soldier in the sangar between 1900 hours and 2215 hours. He also described various shooting incidents, namely that during that period of time he was shot at by a gunman located in the flats at 21 Moyard Park. He said that he could not return fire at this gunman but was aware of other members of his Platoon returning fire.

[433] Soldier A also described a riot situation developing when a group of individuals who came from Moyard Crescent confronted a group of individuals from the Springmartin Road. He described the Springmartin group being driven back to the Springmartin Road near the junction with Blackmountain Grove. He also describes shooting from the crowd at Springfield Park shooting into Springmartin Road. He then described seeing soldiers deploying along Springmartin Road and the crowd in Springmartin Park retreating. He then described matters in relation to firing on Henry Taggart Hall. He said that he was being shot at by a gunman positioned near an electricity sub-station north of the Vere Foster School. He then also described coming under fire from a gunman positioned south east of what he described as Finlay's Factory. This witness made no mention of civilians in the waste ground or the specific shooting of Father Mullan or Mr Quinn. The next set of RMP

statements came from the Support Company witnesses and they appear to be D, E, F, P, Q, R, S, T and U.

[434] The most significant of these is D, who it is clear is M12 who gave evidence at the original inquests. He was the Officer Commanding 2 Para Support Company at the time holding the rank of major. The statement he gave was made on 24 February 1972. He did not give evidence at this inquest due to his own ill health. However, it is important to look carefully at what this witness said. Essentially, as the Commanding Officer of 2 Para Support Company it is clear from the statement that this area of Springmartin Road was the tactical area for this Company. So this Company when it received reports of disturbances was bound to react. In fact M12 was ordered by the Commanding Officer of 2 Para Colonel Howlett to move into the area and try to remove civilians after firing from the Moyard flats had been reported. The gunfire was said to have been aimed at a large Protestant crowd on the Springmartin Road and at flats overlooking Springfield Park. It is important to note that there was activity in the area from another Company, namely 3 Queen's. But in any event M12 was ordered to go to this territorial area of responsibility of his.

[435] M12 then explained: "I took one section of my own soldiers with me and drove to the car park area, north east of the new flats opposite Blackmountain Park." He arrived at approximately 2030 hours. It is clear that when he arrived he made contact with the Platoon Commander from the Queen's Regiment who was already in the new car park which is presumed to be the car park of the Springfield flats. The Queen's Platoon Commander informed M12 that his Platoon had deployed forward under the command of the Platoon Sergeant towards the Springfield Park area "to deal with gunmen in the area who had been firing at a large Protestant crowd milling around the Springmartin Road."

[436] As a result of receiving this report M12 sent his section, under a sergeant who was likely Soldier F, to assist the Queen's Platoon. M12 then gave some personal evidence himself. He said he went to engage with someone from the Springmartin

community. There were 400-500 people milling around. M12 saw no weapons amongst the Springmartin crowd who he described as belligerent. But he did speak to two RUC constables and he tried to engage with a Mr Gordon who was an influential member of the Springmartin community. As he was doing this he said shots were still being fired in his direction. At this point, he said at approximately 2050 hours, the sergeant commanding M12's section reappeared and he had with him a resident from Springfield Park who had been captured by the Platoon of the Queen's Regiment "whilst armed with a shot gun and 10 rounds of ammunition." Having been brought on to the Springmartin Road in order to be transferred to custody, the prisoner was going to be the subject of lynching by the Springmartin crowd of Protestants and so a tense situation developed. It is clear that, according to this evidence, the crowd refused to listen to M12 in managing this prisoner and so in order to disperse them, he fired three warning shots from his weapon, which allowed the crowd to be dispersed and the prisoner to be taken to the Springfield Road RUC Station.

[437] M12 then described progress in calming and dispersing the crowd on the Springmartin Road. But he also said this "fire from the Moyard flats area was now quite intense" and he described moving "his section into the western row of new flats between Springmartin Road and Springfield Park to locate and engage the gunmen in Moyard flats. Because of the vantage point offered I remained with them." He said he was in the balcony of the front block and then he explained that his troops were engaging with gunmen on the third floor of 21 Moyard Park, the third floor of 13 Moyard Park and two gunmen in the area of the walls and steps immediately to the east of 78 Moyard Park. At the same time as the Queen's soldiers were still deployed forward of the flats and M12 could not see them, he sent his Company Sergeant Major to find them and control their fire. M12 explained that the fact he sent his Company Sergeant Major to control the fire of the Queen's soldiers was not a reflection on their actual firing, as he himself had not seen any of their firing to suggest that was necessary. But M12 was concerned about the danger of shots from his men hitting the Vere Foster School so he ordered firing to cease. He

had his CSM pass a similar order to the soldiers from Queen's. All firing then ceased.

[438] M12 ordered the Platoon of soldiers from Queen's to withdraw behind the flats and they did so by 2130 hours. When firing had stopped, M12 saw three men, two with either white hats or head covering, move to what he described as open ground to the east of Finlay's Factory. As firing had died down, M12 then withdrew leaving the area to the Queen's Regiment. M12 explained that he knew Father Mullan but he did not see him in the area at all. He recorded the ammunition that his soldiers had fired as follows: 70 rounds of 7.62mm, 12 x 9mm SMG, 7 x .303.

[439] The next soldier, who is Soldier E, was also a 2 Para Support Company soldier. His statement is undated and unsigned but is likely to have been taken in February/March 1972. It is likely that he is the Company Sergeant Major, namely M29/M1175/M1019. The reason for that is that Soldier E said that his Officer Commanding sent him to make contact with the Platoon Sergeant from Queen's and told him to stop firing. He largely confirmed what M12 said about arriving at the scene. M29 is deceased. This Soldier E is of relevance because he had direct input into the arrest and the taking of the prisoner from the Springmartin Road in that he liaised with Queen's in relation to that. He also confirmed the account of his Officer Commanding firing three shots to protect the prisoner from the Springmartin crowd. He said gunfire being directed towards the soldiers was becoming very heavy at the point when the prisoner was being taken away. He also referred to the use of tracer bullets in his evidence.

[440] Soldier E again confirmed what M12 said that the soldiers were then deployed in the new flats on the west side of the Springmartin Road and they started to engage the gunmen in Moyard flats. He confirmed that at about 2100 hours he was sent to make contact with the platoon from Queen's and he explained that he met the Queen's Platoon Sergeant to stop firing. The reason he gave for this was because 2 Queen's were new to the area and may not have known exactly where Vere Foster

School was, which created a chance that they might hit their own men. He then said that 2 Para Support Company left the area under control of the soldiers from Queen's at approximately 2130 hours. Again, like M12, he confirmed he had not seen a priest or anyone waving a white cloth. He did not fire himself and he gave no account of the firing at anyone crossing the waste ground.

[441] The next soldier, who is again Support Company 2 Para, is Soldier F. He made a statement on 25 February 1972. He described receiving a prisoner from soldiers of the Queen's Regiment and given that the arresting officer M68 handed the prisoner over to 2 Para Support Company Sergeant M67/450 it seems that this Soldier F is that person. M6 is deceased. He again referred to being deployed to the area and the crowds. He said when trying to disperse the crowd he was aware that a number of weapons were fired towards the Springmartin Road from within the Moyard estate. He said in his statement that members of Queen's and a section from 2 Para then engaged the gunmen, "firing back into the Moyard estate across the waste ground west of Springfield Park." Soldier F said, "a very heavy gun battle ensued across the waste ground." He took up a position at what he describes as Springfield flats overlooking the open ground. He said that he saw a man, who was on the forward edge of the waste ground, firing a low velocity weapon at the Army. He said the gunmen then ran away to this soldier's left and hid behind a block of flats on the left edge of the open ground. He said that there were gunmen effectively in the field/waste ground therefore.

[442] Soldier F went on to say that as the gunman was firing from the waste ground, soldiers were firing back at the gunman and that at the same time F saw another man fall to the ground on the wasteland. F considered this other man had been shot or caught in the crossfire between the gunman in the flats and the military deployed in Springmartin flats. He then described himself being involved in the arrest of a man brought out by soldiers from the Queen's Company. He could not say anything in relation to the killing of a priest on the field and Soldier F did not suggest that he himself fired his weapon but he gave an account of events as I have said.

[443] Soldier P is also a soldier of 2 Para Support Company who made a statement on 13 March 1972. He said at about 2045 hours he was positioned on a balcony in the top floor of Springmartin flats with other soldiers. He was aware of other soldiers not in the flats but who were positioned along the Springmartin Road. He then explained that within a short time of his arrival he and his colleagues including the soldiers positioned along the Springmartin Road came under fire from a number of gunmen. He thought that was Thompson submachine gun firing on automatic. He estimated the number of gunmen to be about six in all. Soldier P described the gunmen as positioned in and about the empty block of flats in the Moyard area. Soldier P positioned in the flats also said that he saw two gunmen with rifles hiding behind a small wall near some steps who were firing at him. He then said he and other soldiers returned the gunfire at the gunmen. He said he was armed with an SLR rifle and that he had personally shot at the gunmen firing 9 rounds of 7.62 ammunition. He could not say if the shots hit the gunmen because the gunmen were behind the small wall.

[444] Soldier P said that he was concentrating on the two gunmen behind the small wall but he was also aware of other incoming fire from what he described as firing from within the Moyard complex. He described a heavy gun battle. This witness said that at no time during the gun battle did he see a priest moving about and after the heavy gun battle he moved his position from Springmartin flats to Springmartin Road and later left the area.

[445] Soldier Q also made a statement on 12 March 1972 and is thought to be a member of 2 Para Support Company. He said on the evening in question at about 2050 hours he was positioned on a balcony in Springmartin flats off the Springmartin Road. He said there were other members of his own regiment and others also positioned in the Springmartin area. He said within 10 minutes of arrival they came under fire from gunmen positioned in various blocks of flats in the Moyard estate which he estimated as six or seven gunmen firing at soldiers with both high and low

velocity weapons, one of which sounded distinctively like a Thompson submachine gun. He said as soon as the gunmen opened fire on the Army positions a gun battle took place between them and he himself fired 10 rounds of 7.62mm ammunition at two different gunmen.

[446] This witness also referred to a person wearing a white shirt on the edge of the waste ground. He said of the 10 rounds he fired two shots were fired at a man armed with a rifle "who was positioned at the edge of a piece of waste ground near to a block of flats." The man that he fired at was wearing a shirt but he did not know what the colour of the shirt was, but he said that upon firing the man "dropped to the ground hit." Mullan Soldier Q regarded himself as responsible for this shooting and informed the RMP of the fact and made a statement to that effect. After this armed shirted man had been shot, Mullan Soldier Q saw another man move towards the armed shirted man he considered he had shot. He saw this second man bend down towards the injured man and then he went out of view. Soldier Q did not see what the second man did after he bent down towards the injured man, or where he went thereafter.

[447] Soldier Q then described firing at a second gunman who was positioned behind a small wall near to some steps between two blocks of flats to the south of Finlay's works. Soldier Q said that he was aware of other soldiers firing rounds at the same gunman he was shooting at. He thought he had hit this gunman in the leg when he attempted to run away. Soldier Q said that the gun battle was particularly fierce for the opening 10 minutes. He estimated that during this gun battle between 200 and 300 rounds were fired towards the security forces on Springmartin.

[448] Soldier R made a statement on 12 March 1972 and is also thought to be 2 Para Support Company. He was also one of the soldiers deployed in the Springmartin area. He said he was positioned in a bedroom of a vacant Springmartin flat overlooking the Moyard estate. He said shortly after 2100 hours he and the other soldiers came under fire from a number of weapons. He thought these were

automatic and single shots. He thought they were coming from various blocks of flats in the Moyard area. Soldier R said he himself saw the outline of a man inside a room on the top floor of one of the flats nearest to the waste ground. He said this person was armed with a handgun and Soldier R could quite clearly see the smoke from the gun whenever he fired, so this man was discharging the weapon he possessed. Soldier R said that he fired 15 rounds from his SLR at this gunman on the top floor flat and then he suggested the shooting from that area stopped. He was aware of other shooting and he also refers to a heavy gun battle. He said that the heavy gun battle gave way to "spasmodic firing at us throughout the night." He said that he moved his position from the Springmartin flats to the Springmartin Road and then moved with other soldiers to the Springfield Road.

[449] Soldier R explained that when he was shooting from the Springmartin flats he did not see anyone moving about the waste ground including a priest. He only learned the next morning that a priest had been shot and he said he knew nothing about that. This soldier said he fired 15 rounds of 7.62mm ammunition at a gunman in a third floor flat in Moyard.

[450] Soldier S made a statement on 12 March 1972, again he is thought to be a member of 2 Para Support Company. He again referred to being deployed into the area and having seen a large crowd. He made his way into the flats. He described going to the top floor of the flats where he could see the whole of the Springmartin area and he believed that when there he received fire from about eight gunmen positioned in the Moyard flats. In relation to these particular gunmen he described seeing one such gunman armed with a rifle and firing through the open window of a flat facing towards his position. He fired four rounds from his SLR rifle through the open window at the gunman and the shooting stopped. He did not see the gunman being hit but rather assumed he had been. Soldier S then described seeing a gunman behind a small wall near some steps armed with a rifle. In seeing the gunman crawling between a small gap in the wall Soldier S fired two shots at him. He was of the view that his shots did not hit the gunman. He then saw a second gunman

behind the same wall but over to his right. He fired two rounds at that gunman and he did not say whether he hit the gunman or not. Soldier S also talked about shooting from a bungalow in Springfield Park at a gunman near a garage on the edge of the waste ground. He explained that he moved to the ground floor of the Springmartin flats before moving forward into a bungalow in Springfield Park where he took up a position in a rear bedroom. He said while positioned there he saw another gunman armed with a pistol positioned near to a garage on the edge of the waste ground. The man with the pistol fired towards Soldier S and Soldier S returned fire with four rounds. He did not know whether he hit the man or not.

[451] Soldier S then described further shooting occurring but he was not in a position to identify the gunmen or return fire at them. He was then instructed to fall back to the Springmartin Road before leaving for the Falls Road where other shooting was occurring. Soldier S said that he did not see a priest during the gun battle but did learn the next day that a priest had been killed. He said he learned the priest had been "caught in the cross fire during the gun battle between the security forces and the IRA."

[452] Soldier T made a statement on 19 March 1972. It is thought that he was also a member of 2 Para Support Company. He described firing .303 ammunition which indicated that he was using a sniper rifle rather than an SLR. He fired six shots across three sets of engagements. He said that he arrived at Springmartin about one hour before dark, moved into Springmartin flats and took up position on a top floor of a balcony that overlooked the Moyard estate. He said that shortly after moving into the Springmartin flats information was received that there was a man armed with a shotgun in a house in Springfield Park. He went with other soldiers to search for the man and he explained that the man was arrested by a patrol from another regiment and then handed over to them together with a single barrelled shotgun and ammunition. Soldier T then explained that while he and his colleagues were taking the man back to the Springmartin Road they were fired on by gunmen located in flats at 9-21 Moyard Park. The man that had been arrested was taken behind

Springmartin flats and then driven away. Soldier T said he went back to the balcony in Springmartin flats and at this point he thought there were six gunmen positioned in empty flats firing towards the position of the soldiers. He said he fired two rounds of .303 ammunition at the gunmen. He located one of approximately six of them armed with a rifle in an empty flat with no windows at 15 Moyard Park. He said the first round struck the building. He considered other soldiers were also firing at the gunman, he thought the second round was on target and there were no more shots then fired from No. 15.

[453] Mullan Soldier T then described receiving instructions to move forward into Springfield Park. He said he went down a path between 97 and 99 Springfield Park. Soldier T as he advanced down the path described being shot at by a gunman that he saw just in front of 44 Moyard Park on a path near some steps. In response to being fired at, Soldier T fired one round of .303 at the gunman and he thought that the gunman fell to the ground. Solder T then described three people run out from nearby flats and pick up the man whom he had shot. Two carried the gunman and the third carried the rifle and disappeared. Solder T was also aware at this time of other weapons firing. He thought one was a Bren gun using tracer, the second he described as the unmistakable sound of a Thompson submachine gun. Soldier T then described moving forward again to the side of 54 Springfield Park where he could see the waste ground between him and Moyard Park. He explained that he had been told there were some injured people on the waste ground. He said that he shouted across to a gunman to stop firing as 2 Para Support Company had a medic who wanted to treat the injured men. He said he did not get a reply but instead heard two whistle blasts. The incoming fire then stopped and he said they started to move very cautiously and slowly forward to provide first aid. As Soldier T reached the garden of 54 Springfield Park the gunmen opened fire with a number of weapons. He thought that these were high velocity weapons and two handguns. T and the person with him dropped to the ground and rolled back to the side of the house and he thought the rounds fired were striking the house at 54 Springfield Park.

T described seeing a gunman with a rifle on the ground floor of 3-5 Moyard Park and fired three rounds of .303 at that gunman.

[454] He then described shouting out across the waste ground that if there was anyone there requiring medical treatment they should crawl towards him on the grass. He described a young man with 3 children coming out of the field towards him and he explained the man informed him that he had gone to look for his children when the firing started and he took the man and the children to a neighbouring house. T then described moving back through the houses presumably off Springfield Park to the Springmartin Road from where he eventually left the area. He thought about 400 rounds had been fired at Army positions and that it had been quite fierce. He said he did see what he described as IRA medics moving about the estate but he had not seen a man dressed in clerical clothing.

[455] Soldier U's statement is also thought to come from 2 Para Support Company. It is dated 15 March 1972. Soldier U explained he was also on mobile patrol in the Highfield estate at around 2040 hours when he was instructed to go to Springmartin Road where it had been reported that large crowds had gathered and some shooting had taken place. He debussed with his colleagues behind Springfield flats. He said that as they were walking on the south east side of the Springmartin flats he and his colleagues came under fire from a gunman positioned in the nearby clinic. U said that at the point where the clinic gunman started firing there was also firing from other gunmen in Moyard estate. He said a number of rounds struck the metal fence near where he was standing. He then described moving to a position on a top floor balcony of the flats. From that position he said he could see a crowd of people, one of whom was carrying a tricolour, running along Moyard Park from east to west. He saw them run up the steps at the side of 45 Moyard Park and vanish from view.

[456] Soldier U then described seeing five or six gunmen on the waste ground. He said that he saw, from his vantage point on the top floor of the balcony of Springmartin flats, about 5 or 6 gunmen hiding lying in the grass of the wasteland

north of Moyard Park. He said these people were armed with rifles and pistols and they were firing their weapons in the direction of U and his colleagues. He said at the same time other gunmen, who were located in another block of flats, were firing at other security force personnel located to his left and he was aware of the security forces returning fire at the gunmen. U said he returned fire at the gunmen on the waste ground and he fired 10 rounds from his SLR at the gunmen on the waste ground.

[457] U did not suggest that he struck any of the gunmen. Of the five or six gunmen in the waste ground he was able to describe one man in a white shirt armed with a rifle and firing it. He described another gunman who ran across the field/waste ground towards the north end of Springfield Park. U saw the remaining gunmen, except for one, get back out of the waste ground. As far as U was concerned, one gunman did stay in the waste ground, hidden behind a small hump. He did not say if he ever saw that gunman again. U said he did not see any person in the waste ground dressed in clerical clothing and he said that if he had seen such a person he would have stopped firing. U described what occurred as a "fierce gun battle between the gunmen and the army" and he said a heavy volume of fire was being aimed. U described remaining in the Springmartin flats until relieved by other members of the Parachute Regiment. This account could not be developed or tested with M1341 for the reasons I have given in the foregoing narrative.

[458] That concludes the account of soldiers from the 2 Para Support Regiment. It is clear from this that rounds were fired by these soldiers. Soldier D or M12 fired 3 rounds with his pistol. Soldier P fired nine 7.62mm rounds from his SLR rifle. Soldier Q fired 10 7.62mm rounds from his SLR rifle. Soldier R fired 15 7.62mm rounds from his SLR rifle. Soldier S fired 12 7.62mm rounds from his SLR rifle. Soldier T fired six or possibly seven .303 rounds from his sniper rifle. Soldier U fired 10 7.62mm rounds from his sniper rifle.

[459] The other category of ciphered statements comes from 2 Queen's A Company and that is ciphered Soldiers G, H, J, K, L, M and N. I should say at the outset that I am quite convinced that these are soldiers from the 2nd Battalion of the Queen's Regiment A Company although there are confusing references to 3 Queen's soldiers. The use of these ciphered statements is problematic because it is fairly well established in the evidence that 2 Queen's A Company was not deployed to this area until around midnight on the night in question. Rather, it is clear that 3 Queen's B Company were involved in this area earlier in the day and at the relevant time. However, no statements were taken from 3 Queen's B Company. It is important to note in terms of verification of their presence in the area that it was recounted in the radio logs I have referred to and also the arrest of Mr McNulty who was in possession of a shotgun in Springfield Park at 2045 hours was by Private M68, a soldier from 3 Queen's B Company. There is therefore an issue in relation to the relevance of 2 Queen's A Company to these events. There is no contemporaneous evidence of the deployment of soldiers from 2 Queen's A Company before midnight on 9/10 August 1971.

[460] They certainly have given evidence about events on 10 August 1971 but it is not clear that they can give any evidence about 9 August 1971. The 2 Queen's Northern Ireland Record of Tours 1971-1988, which I obtained, indicates that the actual deployment of 2 Queen's A Company was at midnight on 9/10 August 1971 "where there had been a certain amount of shooting just prior to their arrival." This accords with evidence given by members of 2 Queen's A Company with which I was particularly impressed in the latter stages of this inquest. They clearly referred to coming to the area after the events I am investigating. They did see ammunition shells on the ground but I cannot see that they themselves were involved in anything to do with the deaths of Father Mullan or Mr Quinn.

[461] Notwithstanding the above, I am being asked to look at these statements that were made a considerable time after the event in Germany/Wales. These are broken down into a number of groupings. Firstly, Soldier H, who was then the 2 Queen's A

Company Platoon Commander, is a second lieutenant and M71 frankly accepted in his evidence that this was likely him. He made a statement on 23 February 1972. He confirmed that he was based at Paisley Park and not deployed until midnight. I will not repeat this statement as I dealt with it when looking at his evidence. He was quite clear that none of the soldiers in this company were present when the events were happening. They had to deal with other difficult situations and there were clearly further issues on the evening of 10 August 1971 but this evidence is not relevant to the deaths in question. I will comment in due course about why this evidence was relied on in previous inquests. But for my purposes I am very much satisfied by the evidence of M71 in relation to the role of 2 Queen's A Company.

[462] Soldier J is also 2 Queen's A Company and likely Company Sergeant Major M37. He is 81 years of age. He also referred to being based at Paisley Park and not having any recollection of the events at all. I have referred to this evidence previously but again it does not assist with the deaths of Father Mullan or Mr Quinn save that he also witnessed spent cartridges whenever he took up position.

[463] Soldier O or M21 does not have a statement and is deceased. The other soldiers in this group include G who is referred to by others because he was a Royal Corps of Transport soldier. It is thought that he is likely to be M602, who is now deceased, and he made a statement on 25 February 1972. He referred to a gun battle to his left between a number of gunmen in the Moyard estate and soldiers on the Springmartin Road. Soldier G said his platoon remained in its position until dawn and he heard, on what he considered to be the next morning, that a priest had been shot having been caught in the cross fire. He himself did not see a priest. He could not say whether his platoon returned fire; he thought they had not.

[464] This in a sense introduces some doubt about this issue of 2 Queen's A Company being present. The events described may be 10 August 1971 rather than 9 August 1971. Soldier L was also a 2 Queen's A Company soldier and he referred to his platoon being deployed at the north end of Springmartin Road taking up position

in the flats. He described seeing a crowd of about 20 Protestants standing at the junction of Blackmountain Grove and he said about 2102 hours, "all hell was let loose from the estate." He said 12 weapons of different types were fired from the estate at soldiers deployed in the south end of Springmartin Road and he heard troops returning fire into the Moyard estate. References were made to the fact that he did not see Father Mullan.

[465] Soldier M is in the same bracket. He also spoke of a gun battle which occurred on 10 August 1971 and he refers to shooting from the Moyard Flats and he saw no one on the waste ground whether shooting or otherwise.

[466] Soldier K was a Platoon Commander from 2 Queen's. He made a statement as well in 1972 and talked about his platoon deploying at the junction of Dunboyne Park and Springmartin Road, which is near the junction of Springmartin Road and Springfield Road. He said that around 2100 hours he was coming under fire from gunmen positioned in various flats in Moyard from a mix of guns. Soldier K referred to loudhailer warnings and he also referred to positioning of two soldiers on the roof of the school off Springmartin Road opposite Blackmountain Parade. He said he fired 10 rounds from his 9mm pistol at a gunman at 660 Springfield Road and also four rounds from his 9mm pistol at a Protestant gunman in Highfield.

[467] I have been referred to an entry in the 2 Queen's Northern Ireland Record of Tours 1971-1988 for 10 August 1971 which describes a gun battle involving 2 Queen's A Company 1 Platoon on the evening of 10 August 1971, which also refers to the discharge of 15 9mm rounds. Soldier K also referred to the presence of Loyalist gunmen firing into Moyard on 10 August 1971.

[468] Soldier N is again a member of 2 Queen's A Company. He also referred to witnesses shooting from Moyard flats and that he fired his weapons in response. He made no mention of shooting from the waste ground. In terms of the investigation into this part of the inquest the RMP Gazette indicates that an RMP investigation file

was opened into the death of Francis Quinn and the case was assigned to RMP SIB Staff Sergeant M6. A typed report of 10 August 1971 that Mr Quinn was received to the hospital morgue on 10 August 1971 (given the wrong name of O'Neill), indicated that it was believed that his body had been recovered from a flat overlooking Henry Taggart Hall, as opposed to him having been shot in the field/waste ground with Father Mullan.

[469] It is also evident from the investigation proforma that his understanding was that Francis Quinn had been "found dead on balcony of flat in area of Henry Taggart Hall." This was all on the basis of SIB Sergeant M6 and his investigations. The Quinn investigation therefore led to soldiers' evidence being taken from soldiers A-E who were all in the south east sangar of Vere Foster School at the relevant time. The RUC police report to the coroner concerning the death of Francis Quinn, as I have said, indicated that the body was recovered from a flat in Moyard estate, after a gun battle between the Army and snipers at Taggart Memorial Hall, Springfield Road.

[470] When submitting the inquest file in January 1972, RUC Detective Constable Wilson indicated that it was alleged that Francis Quinn was fatally shot while assisting the late Father Mullan but enquiries had failed to establish this. From the available inquest material it appears that Sergeant M6 read into the evidence the statements of Quinn Soldier A and Quinn Soldier E which speak of the shooting from and at 21 Moyard Park only. The statements of Quinn Soldier A and Quinn Soldier E seem to have been admitted as exhibits.

XI. OTHER EVIDENCE INCLUDING THE INVESTIGATION AT THE TIME

[471] George Dennison, an ambulance man, gave evidence to the 1972 inquest of picking up a man whom he was told was Francis O'Neill from a house in Moyard Park. He later learned that the man was actually called Francis Quinn. In his evidence he accepted that it might have been Moyard Crescent. Mr Rutherford, FRCS, also appears to have been told it was Francis O'Neill and in his deposition he

stated that the body had arrived at the Royal Victoria Hospital in the same ambulance as that of Father Mullan. Photographs were taken by RUC Constable Johnson.

[472] The RUC Report to the coroner in relation to the death of Father Mullan was dated 17 August 1971 and provided by RUC Sergeant Fitzpatrick. Father Mullan was said to have been administering religious rites to an injured man when he was shot and that to that point the persons responsible had not been established. Father Mullan's report also included a narrative that the fatality occurred when serious rioting resulted in a gun battle between terrorists and military personnel at the Taggart Memorial Hall and contiguous areas. Father Mullan had been administering the last rites to a wounded man when he was hit by bullets which caused his death. A decision was made to have the inquests heard separately and on 18 February 1972 this inquest was subject to some delay.

[473] On 21 February 1972 the Chief Constable's Office informed the RUC B Division that the Crown Solicitor suggested adjourning the proposed Father Mullan inquest due to RMP enquiries from military personnel stationed in Germany. On 1 March 1972 a detailed memo referred to this issue in that the RMP SIB "was informed of the content of Crown Solicitor's direction regarding the army investigations into this matter." He obtained a number of further statements from military personnel deployed in the area of Springmartin Road on the night in question. These statements show that the Army fought a gun battle against terrorists positioned in Moyard. The field where Father Mullan was shot was directly in the line of fire between the Army and the terrorists. It was now thought he was shot in the crossfire. A number of persons were shot dead in the contiguous area of Moyard and inquests have already been conducted and an open verdict found.

[474] In addition, the RUC memo went on to say "enquiries show that Father Mullan was the only person shot dead in the field at Moyard on the night in question - others were injured." Therefore, various statements were of interest to

this inquest and a number gave evidence at the inquest. RUC Constable Thompson also gave evidence at the inquest.

XII. CONCLUSIONS FROM THE EVIDENCE

[475] Drawing together all of these various strands and having looked at all of the written materials, the statements made by civilians and the oral evidence of civilians, the statements made by military personnel and the oral evidence of military witnesses, as well as expert evidence and other evidence, I have reached the following conclusions in relation to these deaths. I reach these conclusions bearing in mind the difficulties in establishing facts at this remove of time, and applying the balance of probabilities to the issues I have to decide. I do so avoiding speculation as to why things happened on this day in August 1971 and confining myself to the establishment of facts and the application of the relevant legal principles.

[476] At the outset I note from the MoD closing submissions that the MoD in the case of Father Mullan have expressly said that he was an innocent victim. That is a clear and welcome articulation of the evidence in relation to Father Mullan which I take into account.

[477] In terms of the timing of the deaths there is broad agreement, which is confirmed by the contemporaneous records, that the two men were shot at a point in time in the evening around 9.00pm.

[478] It is important to look at the day as a whole when examining these deaths. In doing so I entirely accept that there is a context to this particular incident. It occurs on the same day as the shootings which are dealt with in Incident 2. It also occurs in the context of a clear conflagration between the residents of Springfield Park and Springmartin Road. This was explained in all of the civilian evidence I heard in this inquest. I have examined this in detail in the previous sections and so I will not repeat it here. However, one particular witness stands out as she made a statement

at the time and she also gave evidence to me. That is Jane Molloy who worked as a staff nurse at the RVH at the time. She described the tension in the area from early morning and how this escalated in the early evening to the point where someone said "you've got to get out of here." She then described the evacuation of her own family and the utter panic of the people on the streets. It is unnecessary to unpick the exact details but suffice to say that the residents of Springfield Park had to leave as a result of the inter-factional disturbances with the Springmartin residents.

[479] It is hard to work out who started this fight. Some witnesses suggest that the aggression started from the residents in Springmartin and then was reciprocated by the residents in Springfield Park. It is impossible for me to reach a definitive view on that. What I can say is that there was clearly an altercation between the two sides which resulted in significant violence between them. In my view this involved large numbers of people. Again, I cannot put an exact number on this, it is estimated by some around 50 and by others in the hundreds. It is clear that a lot of the activity was by way of bottle throwing and stone throwing.

[480] I have heard evidence that there were people on the streets with guns. There is some objective verification of this, namely the arrest of Harry McAnulty who had a shotgun in Springfield Park and also the shooting of a 16-year-old in Springmartin. The RUC witnesses who have come to give evidence also verify this.

[481] I am not satisfied that a valid case can be made about inaction on the part of the RUC in relation to this day's events. I find the evidence given by the RUC witnesses to be credible on this point. It is clear that with the events that were happening the Army were required to quell the situation and that is when these events came to pass.

[482] I am satisfied by the evidence that there were gunmen at Moyard flats. I have heard substantial military evidence in relation to that from a number of witnesses including M45. There are also two civilian witnesses who talked about gunmen

being in the area, namely Gerald Clarke and Mr McCaffrey. There was also reference to men with handguns in the statement of Patrick Fennell. I believe both witnesses, who gave clear evidence to me in a straightforward manner. Mr Clarke identified two people who he said were in the area and were in the IRA and I accept that evidence which is verified by the material provided to me in relation to the two individuals.

[483] Mr McCaffrey also referred to an armed man. This evidence appeared authentic and correlates with other evidence that some gunmen were seen in the area on this day. I cannot say how many gunmen there were but on the basis of the evidence I have heard there was at least a small presence.

[484] M45 gave evidence of shooting at Moyard flats, as did other military witnesses towards the end of this inquest. While there were some question marks about where exactly these people were and how exactly they were shot at and lines of vision, overall there is enough evidence to suggest that there was shooting directed to and from Moyard flats. There can be no dispute that the Army were entitled to respond to the threat from gunmen shooting directly at them.

[485] The justification for the shooting of people in the waste ground is a different matter. It is complicated by the fact that there is some evidence that there were gunmen in the field. However, that comes primarily from the RMP statements made by ciphered soldiers who have not identified themselves. As I will explain below, these statements do not specifically identify the deceased as presenting any threat or as being near to a gunman in the field.

[486] The pathology and ballistics evidence is fairly uncontroversial in relation to Father Mullan, although there was some modest dispute about the number of bullets that hit Father Mullan. I tend towards the theory that there were two bullets which hit him on the left chest and left buttock and this accords with Dr Carson's preliminary autopsy. There were no bullet fragments removed from Father Mullan's

body but the pathology is in keeping with injury from a 7.62mm military issue weapon. It is also clear from the ballistics and pathology that Father Mullan was shot from the left and to the rear and he was lying, kneeling or crouching. It was not at close range.

[487] The pathology and ballistics evidence was largely agreed in relation to Francis Quinn. This man had clearly been shot once in the back of the head with a 7.62 x 51mm calibre rifle. The bullet was taken from the body and was identified as being identical to the L2A2 military ball ammunition issued at the time. The rifling marks were of the same general class. There is clear evidence, given that a bullet was recovered, that this was from a military issue weapon. It is also quite clear that Mr Quinn was shot once in the back of the head and died from that injury.

[488] Then the question is whether the deceased were hit by the Army or the UVF. The MoD refer in their submission to the suggestion (through Witness X) that the UVF gunman using a Mauser “confirmed hits” in the field between Moyard and Springfield Park. They submit that the inquest “cannot rule out the possibility” that Father Mullan was fatally injured by rounds discharged by the UVF. As I explain in Incident 2, reports provided to me in 2018 make it clear that there was no forensic link between any of the recovered bullets, including the bullet from Mr Quinn, and this type of weapon.

[489] While the MoD accept that Mr Quinn could not have been killed by the Mauser, they say that “the possibility remains” that another UVF sniper was responsible for discharging the 7.62mm bullet that killed Mr Quinn. These submissions are speculative and not supported by the evidence before me. I also note that I have not heard from any UVF witness to validate the suggestion that these deaths were caused by the UVF. Moreover, the CIFEX letter of 21 May 2019 points to the fact that military issue weapons were unlikely to have been in the hands of the UVF at the relevant time.

[490] Also, it seems to me that if this were the case and there was both a spotter and a sniper in Springmartin flats I might have heard about it from at least one of the military witnesses who gave evidence before me. Whilst some evidence has been given of a very broad and general nature in relation to armed loyalists in Springmartin there has been absolutely no evidence of particular gunmen of this category in Springmartin flats. There is insufficient definition of where the UVF gunmen were placed and no explanation at all as to how they may have shot at persons in the waste ground.

[491] Having listened carefully to all of the evidence in this case, particularly the military evidence, there was no suggestion emanating from a large range of military witnesses who came forth that these men were shot by anyone else. I reject the submission made by the MoD in closing that they may have been shot by other gunmen, principally those from the UVF, as I consider this is speculative and does not accord with the evidence I have heard. In addition, this suggestion does not, in my view, add up upon consideration of the locations of persons who may have been in the area and the ballistics and pathology evidence.

[492] C3 was clearly trying to assist me and he was doing his best but his evidence was not clear and coherent enough on this issue and so I cannot rely on it to support any conclusions. I find on the balance of probabilities that both deceased men were shot by the British Army.

[493] Having reached my conclusion that the deceased were shot by the military, I must consider the explanation given by the State for these deaths. In this regard reliance is placed on ciphered soldiers' statements which refer to gunmen in the area. No military witnesses have given evidence of direct involvement in shooting the deceased. However I must decide on the evidence I have whether the deceased were acting in a manner which would justify the use of lethal force. The case is also made that the army were justified in the use of force due to IRA activity in the area.

[494] First I will deal with the issue of whether either of the deceased men was doing anything which justified the use of lethal force. This depends on whether either man can be identified from the ciphered statements, where they were and what they were doing. It also depends on how I assess the civilian evidence and the military evidence.

[495] Starting with Mr Quinn, it is clear that that he was shot from a high velocity weapon at long range. There was some speculation between ballistics experts that the bullet may have passed through Father Mullan or an unknown person. This was due to the fact that the lack of severe bullet damage indicated that the bullet's kinetic energy was depleted prior to striking Mr Quinn. I consider that the ballistic and pathology evidence combined is compelling in support of this. Of course, it is unclear exactly who the bullet passed through, it may have been Father Mullan or it may have been someone else, but I am prepared to accept on the balance of probabilities that the bullet which killed Francis Quinn passed through another person.

[496] There is a problematic aspect of Mr Quinn's case in that swabs taken from Mr Quinn's left and right hands revealed lead particles. Lead is a component of cartridge discharge residue ("CDR"). CDR is also referred to as gunshot residue (GSR) which is produced from ammunition when a weapon is fired. The test used in 1971 was a test for the presence of lead only. The clear evidence that I have heard is that a positive test for lead residue on hand swabs was not conclusive proof that the person in question had discharged a weapon or was in close proximity to a person discharging a weapon. The presence of lead may have resulted from contamination from other sources such as military vehicles, ambulances carrying individuals with gunshot injuries, or leaded petrol.

[497] I note that Mr Quinn was transferred with Father Mullan in an ambulance to the city mortuary and Father Mullan did not have lead residue on his hands. I also

note the evidence given at the original inquest by Mr Beavis on this issue. In particular he said this:

“It is fairly uncommon for the ordinary person to come in contact with lead. I was more interested in the distribution of this lead rather than its presence. ... I could not say if he had fired himself. Normally I would have expected to find more if he had discharged the weapon himself. If a weapon is fired there would be a deposit of other metals as well, especially barium and antimony but they require very sophisticated apparatus and tests and I did not test for those.”

[498] Mr Mastaglio and Ms Shaw also pointed out that the tests in 1970 were limited and in the absence of an analysis using SEM-DEX it is not possible to conclude the specific source of the lead particles found on Mr Quinn’s hands. There is therefore no evidential basis upon which I could conclude that lead traces in this case demonstrate that Mr Quinn had a gun or was in close proximity to someone with a gun.

[499] Having heard the evidence, the position of Mr Quinn is extremely difficult to establish. It is not possible to determine if he was stationary or moving or who else was in the vicinity. There is a general confusion about this amongst the civilian evidence. There is however enough evidence from civilians to identify Mr Quinn as a person who went to assist an injured person in the field. I accept this evidence which was given from a number of witnesses.

[500] I have considered whether Mr Quinn had a weapon with him in the field. The only military evidence about this comes from two ciphered soldiers, one of whom identified the person in the field as wearing a white shirt. That does not accord with the pathology evidence in the original autopsy report which indicates that Mr Quinn

was wearing a brown jumper and a purple T-shirt and jeans. Therefore, I am satisfied on the balance of probabilities that he was not the person identified by the ciphered soldiers in the field. Mr McCaffrey referred to a gunman behind a tree in the field however I cannot correlate this with Mr Quinn's movements or position and he did not identify Mr Quinn. C3 referred to eight gunmen one of whom was shot. Again, I cannot be satisfied that this account is accurate or that the one man shot was Mr Quinn.

[501] There is also a suggestion in the papers and particularly from the RUC Report that, given that the body was moved, Mr Quinn was in fact a person who was shot in Moyard flats and not the field. I have heard no cogent evidence to support this proposition and in any event it does not accord with the nature of the injuries sustained by Mr Quinn. Put it this way, if Mr Quinn was the person on the flats who the soldiers say they were shooting at he was face on to them yet he was shot in the back of the head. So this theory does not add up.

[502] The facts of Father Mullan's case are particularly stark. I am quite convinced that he was a peacemaker. The letters sent by the military after his death are also an indication of the esteem in which he was held. I am convinced that he made representations earlier in the day to the Army. I am particularly persuaded by Father McGuckin's contemporaneous statement that he went to help an injured man in the field and also that he had warned the Army about what was happening in the community. I am also quite convinced that he was carrying and waving a white object at the time when he was shot. There is some dispute about whether this was a hanky or a T-shirt or something else but that really does not matter. There is clearly enough evidence to establish that Father Mullan was going to the field to help an injured person and that he was shot twice in the back.

[503] There has been absolute silence in relation to this from military witnesses, which is surprising as I would have thought that the death of a priest would have been discussed in more detail among soldiers on the ground. If the Army say there

were gunmen in the field that they could pinpoint I cannot understand why they could not see this priest coming into the field at a time when there was still light and there was a clear indication by virtue of his dress in black that he was a priest.

[504] I am satisfied that neither Mr Quinn nor Father Mullan was armed in the field. The civilian witnesses all attested to this and no military witness could make anything approximating to a valid identification. In my view it is much more probable that they went to help an injured man. I have heard the evidence of Bobby Clarke in relation to this and I accept what he said about events in the field. The version does not entirely tally with others but that is understandable. What I think is undeniable is that families were escaping from Springfield Park across the field. That was a common theme in all of the civilian evidence. It was also verified by Mr Pittam who was in the local area in the time and whose evidence I found credible and authentic.

[505] There was panic and men were running with children across the field. Mr Clarke gave a compelling account of this notwithstanding his 85 years. I believe him when he said he was not acting suspiciously but rather he was helping carry a child across the field. I believe him when he said that Father Mullan came to his aid carrying something white and that the priest attended to him. He did not know Mr Quinn but he said that another man was shot around him. I accept this account. All of the other civilian witnesses explain events in the field in different ways, but that does not detract from the overall picture which is painted. There may not be an entirely consistent thread in relation to the fine detail but that does not make me disbelieve any of their stories. They are all broadly consistent about men running across the field with children and being shot at.

[506] Mr Clarke and Mr Millen and C4 gave evidence that they were injured. There is a consistent thread that there was a man with an English accent in the field. I believe that C4 is the man with the English accent, he was a serving soldier at the time who was on leave and so his evidence comes from a different perspective to

others from the area. He verified the story told by the local people. There is a consistent thread in the evidence about Mr Killeh helping out with the injured. Also, many of these witnesses gave statements at the time, which leads me to accept this general account.

[507] The ciphered soldiers could have come forward to attest to what they saw and why they fired. Any other military witnesses could have come forward to provide justification as to these deaths but they simply did not do so. That means I have to go on what I have. As I have said I am satisfied that there was shooting in this area from gunmen but there is no consistent evidence that it came from where Father Mullan or Mr Quinn were actually positioned. That is unlike the clear evidence in relation to gunmen in the Moyard flats area and unlike the clear evidence in relation to other gunmen positioned in areas such as Corry's Yard and the Springfield Road earlier in the day.

[508] The soldiers who were overlooking the field were in protected positions with cover. I note that Mr Clarke said he was shot from ground level in Springfield Park, and that may be correct, however I consider that Springmartin Flats was the more likely location as regards the shooting of Father Mullan and Mr Quinn. This is also an elevated position which I have seen for myself.

[509] I am satisfied on the evidence that there was a limited facility at Vere Foster School to shoot towards the waste ground. The line of sight from the one sangar on the corner of the roof of the school is limited and so I do not rely on this as a likely source of fire.

[510] On the basis of the evidence I have heard I am not satisfied that there was a gunman in the vicinity of the deceased that would justify shooting at them. On the basis of the evidence I have heard, neither of these men was acting in a way that they would cause someone to fear for themselves or others. I prefer the evidence that

Father Mullan was assisting an injured man and that Mr Quinn was close to Father Mullan at that time.

[511] In any event, the use of the force was clearly more than was necessary to deal with the risk posed by any gunman in the field. Even if there were gunmen in the field, the use of force was clearly disproportionate given the number of civilians around, the fact that Father Mullan was waving a white item and the fact that soldiers were in a protected position, shooting from long range.

[512] There is also a suggestion that these deaths may have been caused by crossfire which I have considered. This is a valid point to make because 3 Queen's who were in the area were not an experienced rifle brigade and were not aware of the topography of the area. I accept the evidence given by 2 Para B Company that Queen's were asked to cease fire. Clearly, in my view, there was a considerable amount of firing going on at this time.

[513] Again, the problem is that I have not heard evidence from relevant military personnel as to this. It does appear to me that the response directed towards this field was disproportionate and more than was necessary to deal with the risks posed by activity in the field. It is very clear from the evidence that there were quite a lot of civilians in this area, including women and children who had been evacuated from the Springfield Road area.

[514] In relation to planning and control I have read the 2 Para Ops Report. I have already commented on the internment operation. However, this event is really about the aftermath of that decision. This operation was a reaction to matters that were evolving on the streets at a fast pace. However, The Yellow Card ensures that the least amount of force should be applied in order to protect lives. This was not adhered to as I have found that the use of force was disproportionate.

[515] From the evidence it is also apparent that there were some failures in terms of communication and control of the soldiers who were actually sectioned to this area, namely 2 Para Support and 3 Queen's. It is clear from the evidence that there was no joined-up thinking between these two groups.

[516] In addition I am convinced that the investigation into these deaths was entirely inadequate. This is a time when the investigation was conducted by the RMP which in itself is problematic for the reasons I have set out in my introduction. The flaws in the process are illustrated by the fact that the RMP statements were clearly not complete.

[517] One would reasonably expect statements to have been taken from the 3 Queen's soldiers who were in the area at the time, but no such statements have been produced. It is also strange that statements were taken from 2 Queen's who were not posted to the area until after midnight. That led to an error in the original inquests in which these statements were relied upon. Those inquests were also inadequate given that they were heard separately and the relevant evidence was not presented.

[518] A real problem in this case has been that I have not had the cipher list to determine who the actual soldiers were who discharged shots into the field. I have tried to get that information over a long period of time but it has not been forthcoming. I have consistently said that I wanted military witnesses to come forward in order to hear the military account. I have been hampered in that relevant witnesses have decided not to come to this inquest or have had to be excused. In particular I would have benefited from hearing from M12 and M1341. M12 was excused. To my mind M1341 is likely to have been Soldier U. This is supported by the material I received late in the inquest which came from M1341's file. I record that I did not formally excuse this witness, he effectively decided not to attend.

[519] I have heard limited evidence from 2 Para Support Company about what actually happened on the night in question. By contrast I heard extremely frank and helpful evidence from 2 Queen's A Company. M71 is a case in point as his evidence was straightforward and clear. Also M2312 and M73 along with M71 assisted with the identification of cipher numbers and I thank them for that. Overall, this is evidence that I was extremely impressed with, as I have said, and evidence that convinces me that 2 Queen's was not in the area at the time.

[520] The 3 Queen's evidence has been sparse. I did not find M68 a convincing witness. The evidence of M575 and M579's from this regiment was also of no direct assistance as they said that they did not discharge their weapons or receive any fire at all.

[521] Other military witnesses did try to assist me by providing their recollection of events. However, I did not hear from anyone who was directly involved in these shootings. In particular, there was a notable lack of engagement from 2 Para Support Company personnel. As I have said, M1270 was questioned at length about his knowledge of events on the waste ground, but when pressed about what was happening there he said he did not see women, children and other people running across the waste ground at any time and he maintained the view that he was unable to see the waste ground because of his position. Whenever he was asked about being on a balcony he said it was at ground level and he could not see the waste ground at all. It is hard to understand how soldiers would be at ground level given the flats were in an elevated position with balconies.

[522] If there was a point to be made about a mistake being made and shooting at gunmen who were close by Mr Quinn and Father Mullan someone should have come and told me about that. As it stands, I have no evidence of that nature. I have no direct evidence that either of these two persons were armed. Justification of these types of shootings by the State requires specific evidence about the shooting of specific individuals.

[523] Accordingly, having carried out my investigation, I am of the view that the State has failed to discharge the onus which lies upon it under Article 2 of the ECHR to establish that the shooting of the deceased was justified. I have not heard any convincing evidence, either on paper or orally, to justify why they were shot. The evidence does not establish that the deceased were gunmen or were in the vicinity of gunmen. The use of force which caused the death of the deceased was more than was necessary to deal with the risk which I have heard about. I consider that there is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.

[524] I cannot be any more precise as to who exactly fired the fatal shots. I can however dispel the rumour that these men were armed or acting in an untoward manner.

XIII. VERDICT

[525] The verdicts are as follows:

Father Hugh Mullan

- (a) The deceased was Father Hugh Mullan, male of 45 Springfield Park, Belfast.
- (b) Father Mullan was born on the 9 April 1933.
- (c) Father Mullan was a priest.
- (d) He died on 9 August 1971 on waste ground near Springfield Park, Belfast.
- (e) Father Mullan's death was caused by the fire from soldiers in 2 Para Support or 3 Queen's.

- (f) He was unarmed, not acting in any way as a threat, attending to a wounded man in the field and waving a white object as a sign of his peaceful intentions.
- (g) He died as a result of gunshot wounds to the chest and abdomen.
- (h) The shooting of the deceased has not been justified by the State.
- (i) The use of force by the Army that resulted in his death was disproportionate.
- (j) No proper investigation was carried out into this death.
- (k) There is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.
- (l) The rules of engagement for soldiers in force at the time of this death, namely the Yellow Card, were not adhered to.

Francis Quinn

- (a) The deceased was Francis Quinn, male of 49C Moyard Crescent, Belfast.
- (b) Mr Quinn was born on the 21 April 1952.
- (c) Mr Quinn was a married man, labourer.
- (d) He died on 9 August 1971 on waste ground near Springfield Park, Belfast.
- (e) Mr Quinn's death was caused by the fire from soldiers in 2 Para Support or 3 Queen's.

- (f) He was unarmed, and not acting in any way as a threat.
- (g) He died as a result of a single gunshot wound to the head.
- (h) The shooting of the deceased has not been justified by the State.
- (i) The use of force by the Army that resulted in his death was disproportionate.
- (j) No proper investigation was carried out into this death.
- (k) There is a violation of Article 2 given the manner in which the shooting occurred without minimisation of risk.
- (l) The rules of engagement for soldiers in force at the time of this death, namely the Yellow Card, were not adhered to.

Mrs Justice Keegan

Coroner

11 May 2021

ANNEX 1

INCIDENT 1: THE DEATHS OF FATHER HUGH MULLAN AND FRANCIS QUINN

- 1.1 TBM Consultants Plan B /Ordnance Survey Map 1971 (with lines of sight marked by Brian Murphy)**

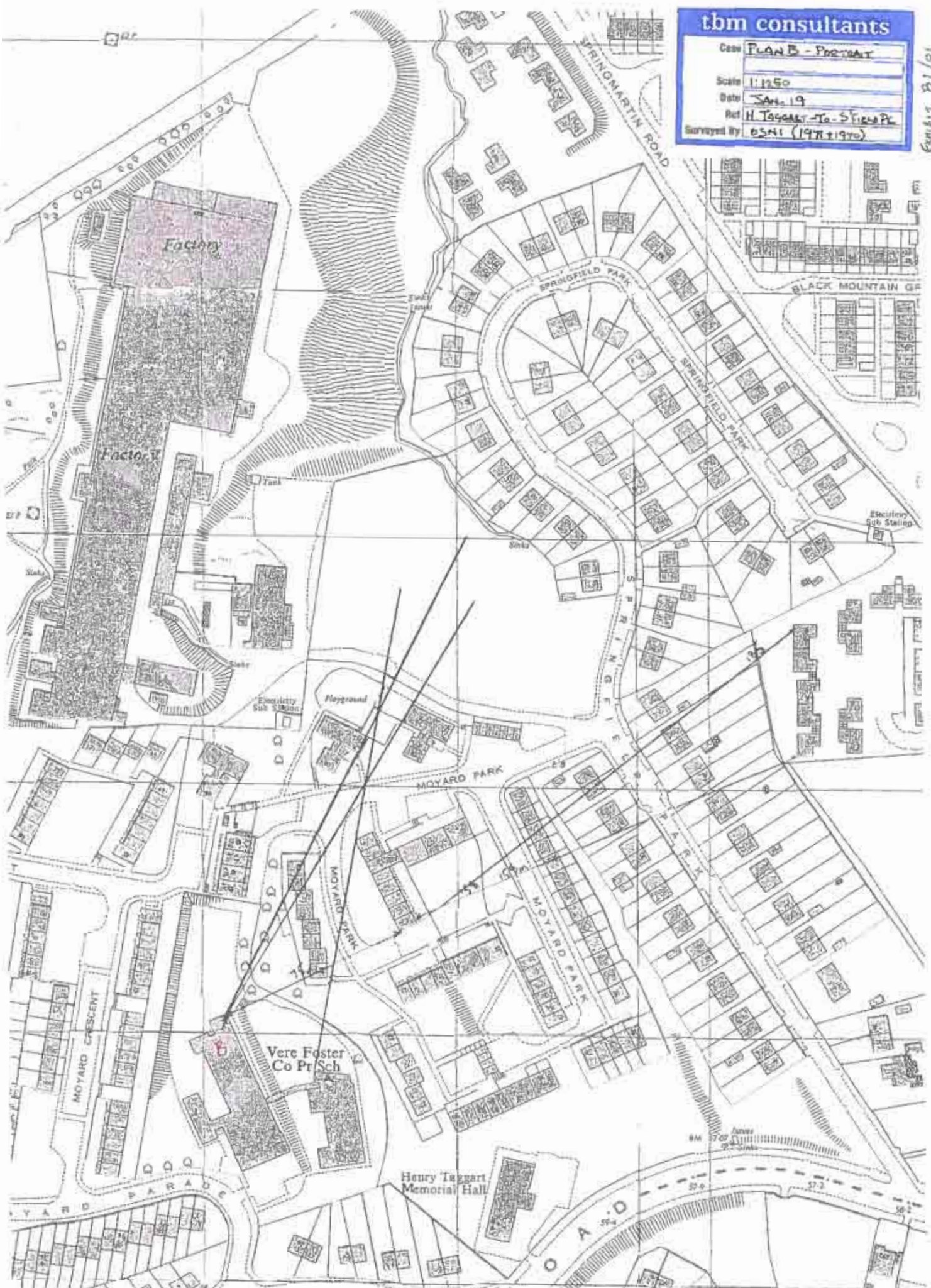
- 1.2 Contemporaneous Police Photographs (showing Vere Foster School, Springmartin flats and the waste ground)**

**1.1) TBM Consultants Plan B /Ordnance Survey
Map 1971 (with lines of sight
marked by Brian Murphy)**

tbm consultants

Case	PLAN B - PRO-MAT
Scale	1" = 125'
Date	Jan. 19
Ref	H. TAGGART - Co. - Springfield
Surveyed By	ESNI (1971 & 1970)

Form B1/01



**1.2 Contemporaneous Police Photographs
(showing Vere Foster School,
Springmartin flats and the waste ground)**

Film A 35mm Aerial



Film A 35mm Aerial



Film A 35mm Aerial



Film A 35mm Aerial

REAR OF 82

No 9

VEEE FOSTER (HIGH)

REAR OF 80



66

70

74

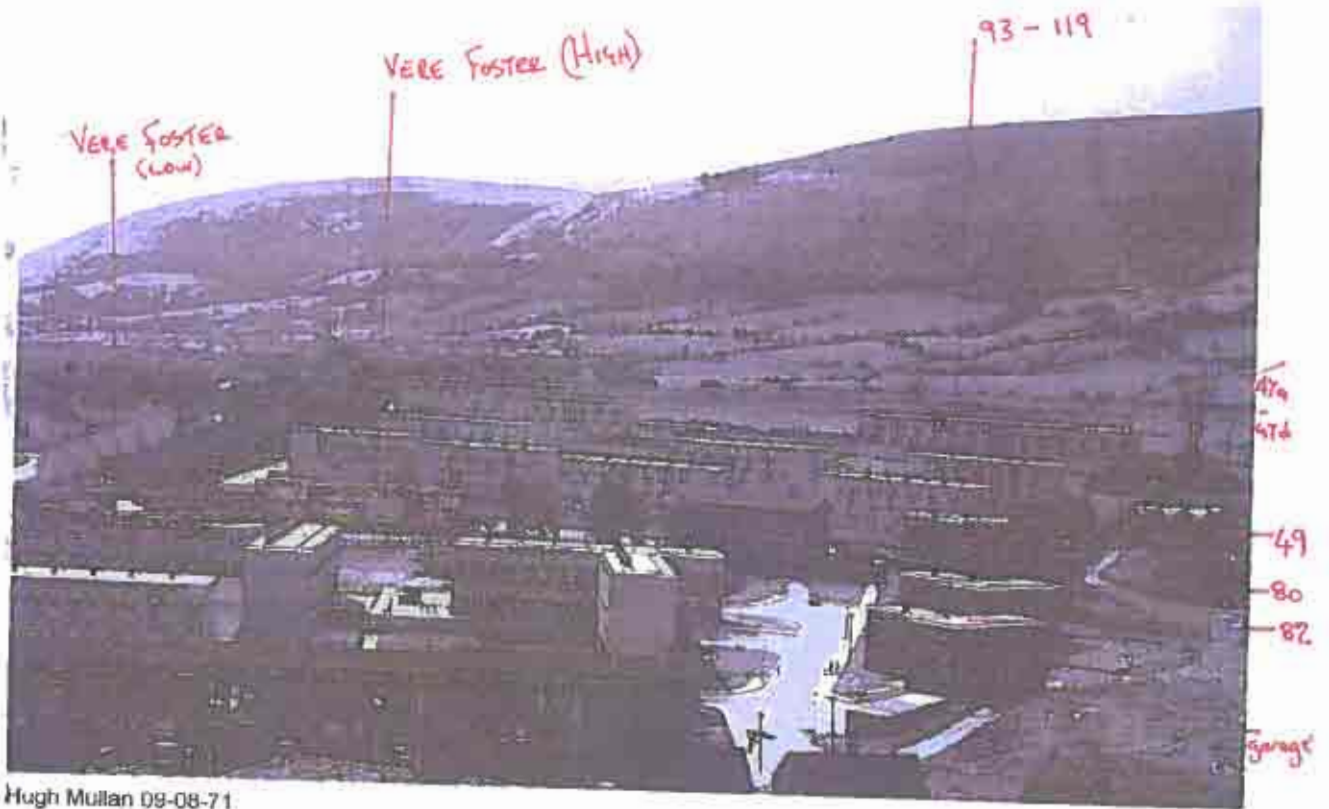
22

Film B 6x7 Aerial

NEW SPRINGFIELD

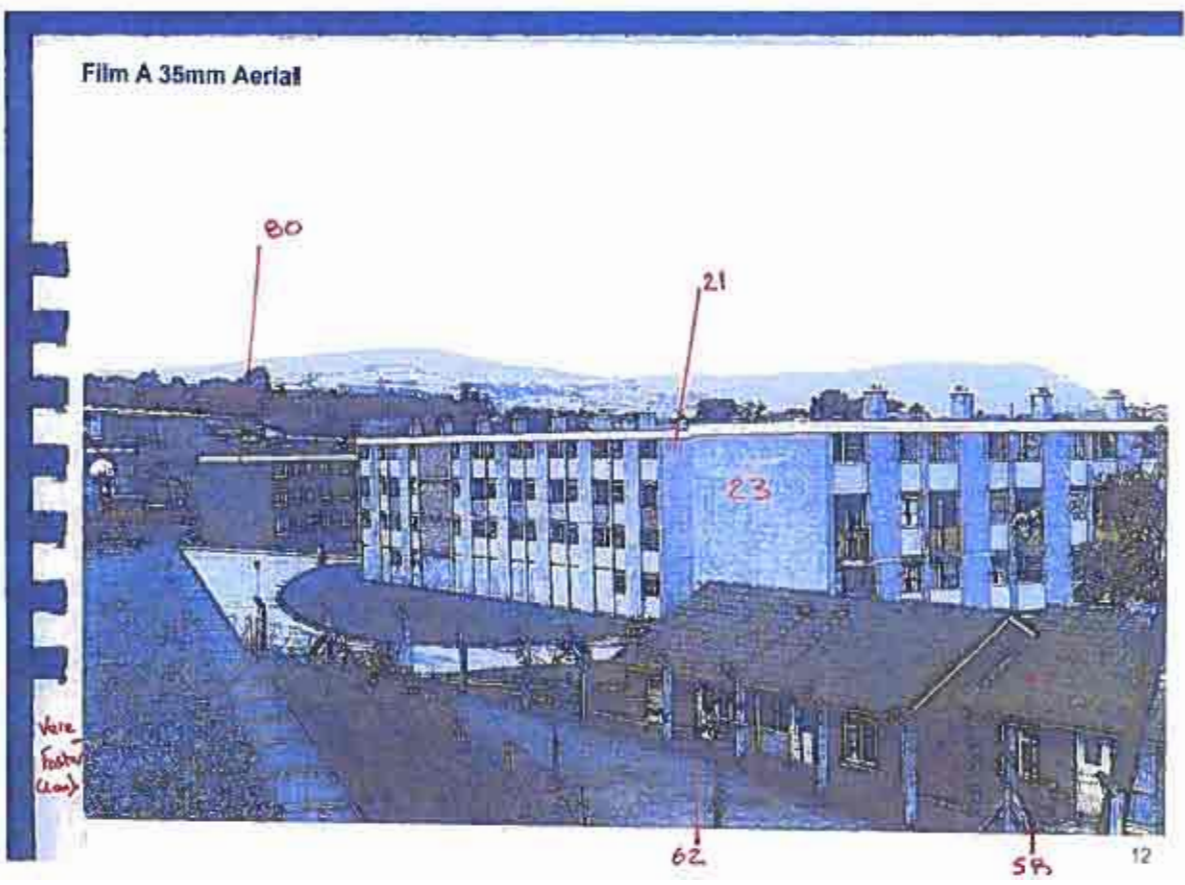


Film B 6x7 Aerial



Hugh Mullan D9-08-71

Film A 35mm Aerial



Vare
Foster
(low)

62

59

12

ANNEX 3

INCIDENT 3: THE DEATH OF EDWARD DOHERTY

3.1 TBM Consultants Plan/Ordnance Survey Map 1965

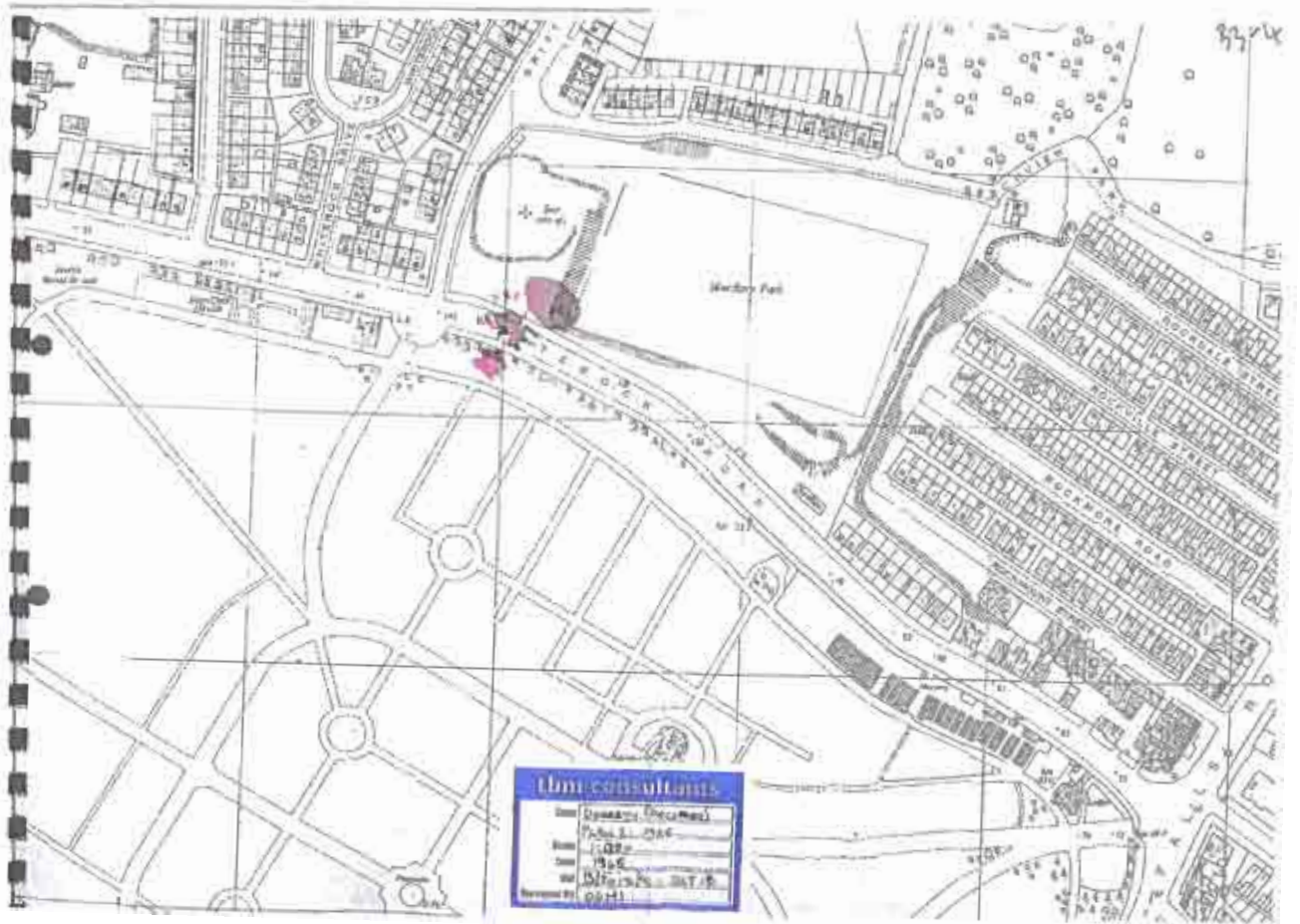
3.2 Photographs of Allis Chambers Tractor

3.3 TBM Photograph 21 (51 Whiterock Road)

3.4 TBM Photograph 29 (7 Whiterock Drive)

3.5 TBM Photographs 31 - 46 (the view from 51 Whiterock Road)

3.1 TBM Consultants Plan / Ordnance Survey Map 1965



3.2 Photographs of Allis Chambers Tractor



X



3.3 TBM Photograph 21 (51 Whiterock Road)



3.4 TBM Photograph 29 (7 Whiterock Drive)

29



3.5 TBM Photographs 31 - 46 (the view from 51 Whiterock Road)

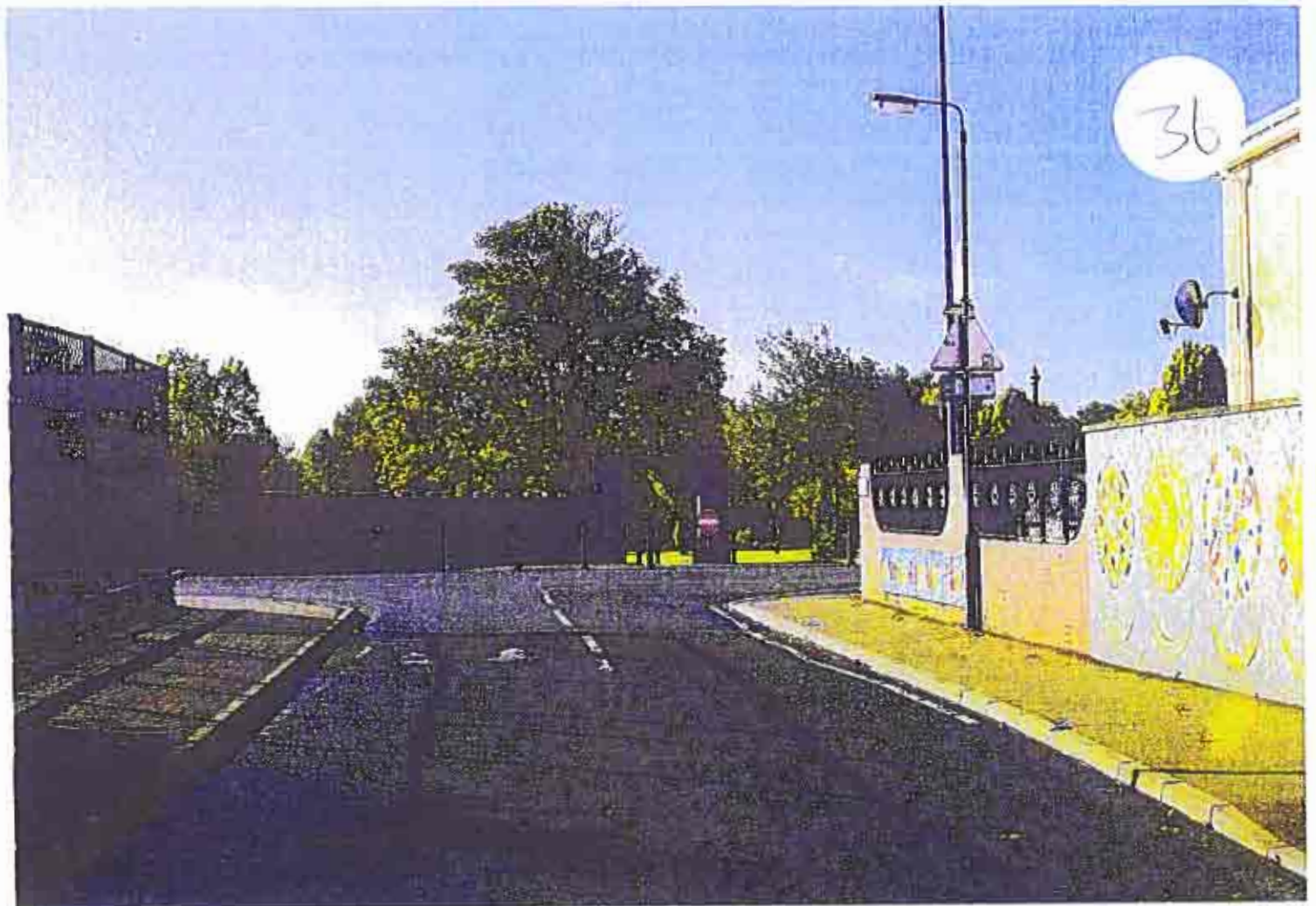


33



34

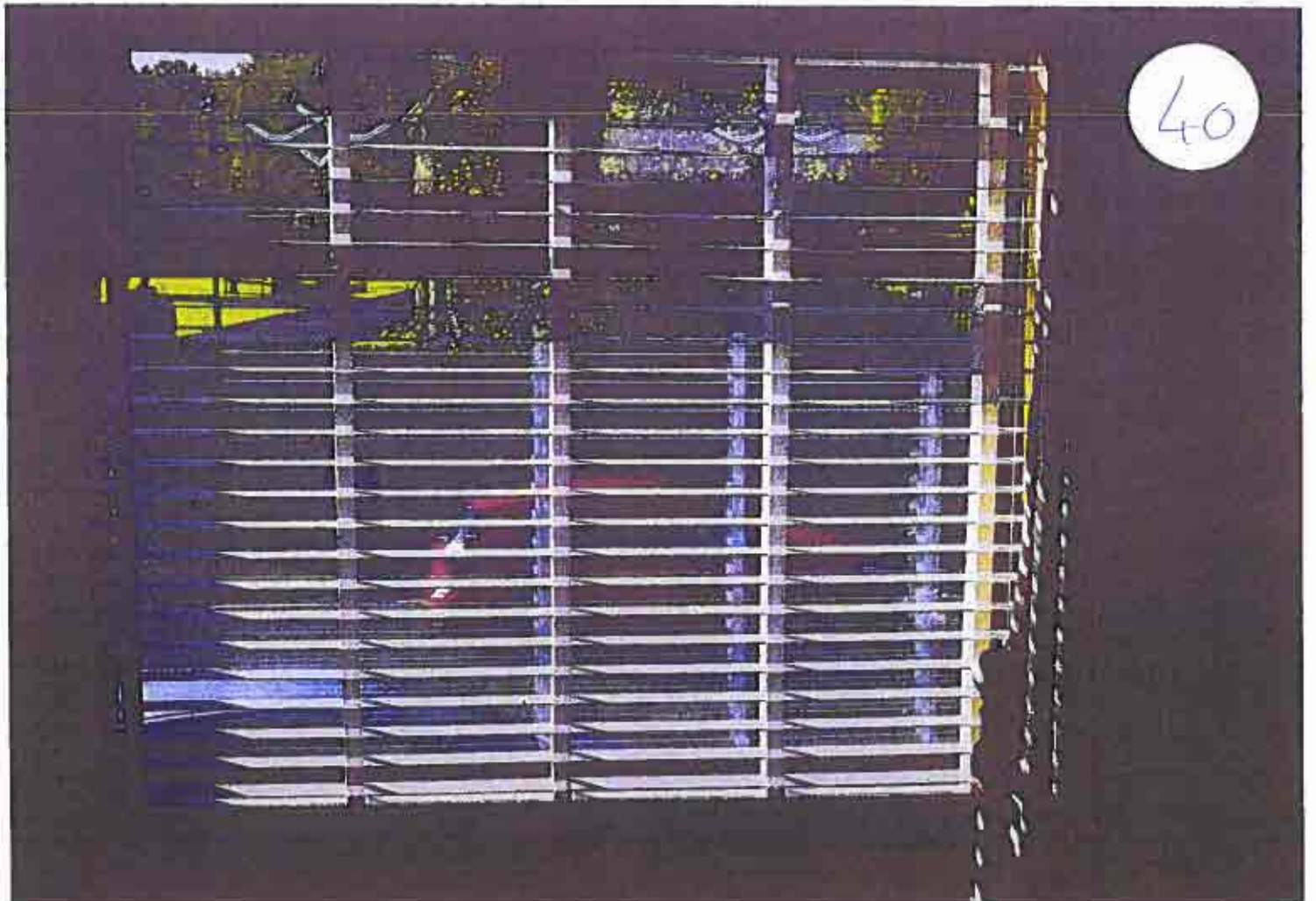




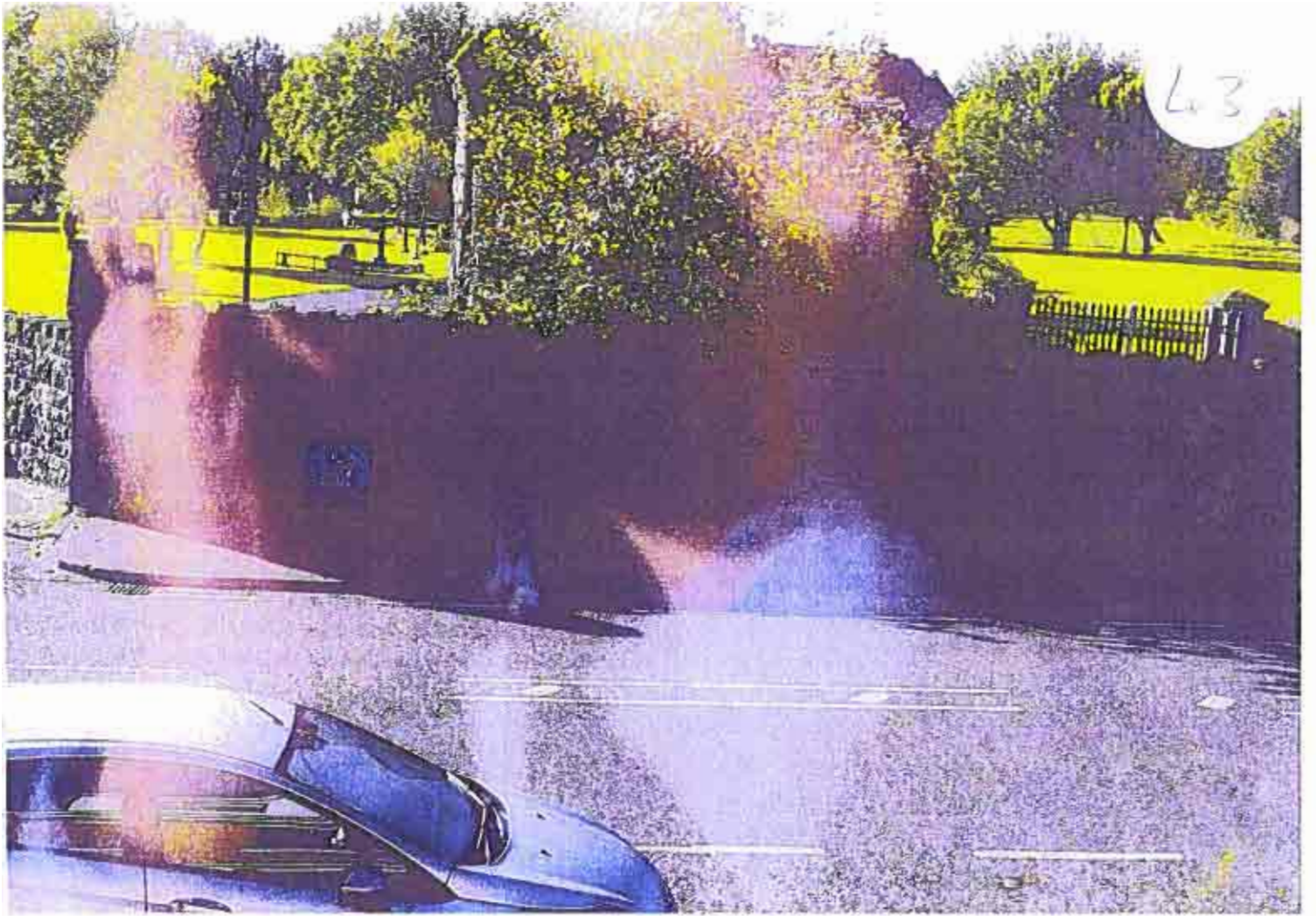




40







3.1 TBM Consultants Plan / Ordnance Survey Map 1965

