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**Delivered: 12/04/2024**

**IN THE CORONERS COURT FOR NORTHERN IRELAND**

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**CORONER HHJ SHERRARD**

**IN THE MATTER OF INQUESTS TOUCHING THE DEATHS OF**

**ROBERT WALKER  
JOSEPH LEMMON  
REGINALD CHAPMAN  
WALTER CHAPMAN  
KENNETH WORTON  
JAMES McWHIRTER  
ROBERT CHAMBERS  
JOHN BRYANS  
ROBERT FREEBURN  
JOHN McCONVILLE**

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**Appearances on behalf of Properly Interested Persons**

**Mr Sean Doran KC and Mr Ronan Daly (instructed by Ms Rosalind Johnston and Ms Cathy McGrann of the Coroners Service NI) for the Coroner**

**Ms Fiona Doherty KC and Mr Eugene McKenna (instructed by KRW Law) and**

**Mr Neil Rafferty KC, Mr Alan Kane KC and Mr Richard Smyth (instructed by McAtamney Solicitors) for the Next of Kin**

**Mr Peter Coll KC and Mr Michael Egan (instructed by the Crown Solicitor's Office) for the Police Service of Northern Ireland and the Ministry of Defence**

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## Introduction

[1] These Inquests (hereafter referred to in the singular) concern the deaths of 10 men on the Kingsmill Road, County Armagh, shortly after 5.30pm on Monday 5 January 1976. The men, all employees at Glenanne Mill, were travelling to their homes in Bessbrook in a work minibus when it was stopped by terrorists. The terrorists ordered the men to line up against the side of the minibus and then shot them dead. The 10 men who were killed are:

Robert Walker

Joseph Lemmon

Reginald Chapman

Walter Chapman

Kenneth Worton

James McWhirter

Robert Chambers

John Bryans

Robert Freeburn

John McConville

## *Note on evidence and procedure*

[2] The Inquest has been greatly assisted by an immense amount of disclosure from the Police Service for Northern Ireland (including the Historical Enquiries Team), the Ministry of Defence and the Police Ombudsman for Northern Ireland (hereafter the PSNI, HET, MOD and PONI respectively). The Inquest wishes to record its gratitude to those who researched and prepared the voluminous materials considered in these proceedings, to the legal representatives for the properly interested persons and, in particular, to the legal representatives to the Inquest. The candour of the disclosure process was matched by a willingness on the part of police and military witnesses to assist by way of giving evidence during which their accounts and actions were closely scrutinised. Many from civilian life who were present either on the periphery or at the scene of the deaths did their best to closely recall events of many decades ago. It is entirely unsurprising that, given the horror and chaos of what was observed and the passage of time, these accounts did not always easily sit together. The Inquest is also grateful for the assistance it received from the Irish authorities and in particular the evidence of Chief Superintendent Matthew Nyland of An Garda Síochána (hereafter AGS) to 77 questions posed through Mr Justice Paul McDermott at the Criminal Courts of Justice in Dublin on

11 March 2022 pursuant to section 3 of the Criminal Justice (International Cooperation) Act 2019.

[3] Witnesses to the Inquest gave evidence in a number of different ways. Where possible witnesses gave evidence in person, sometimes remotely using video technology. As the Kingsmill deaths took place in 1976, many witnesses had either died before the Inquest or were too infirm to give evidence and so statements from such persons were entered under rule 17 of The Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 as if those individuals had been present and given evidence in person.

[4] Both the sensitive and non-sensitive papers in the Inquest proceedings, which ran to 49 folders, contain multiple references to “suspects” using “S” cipher numbers. The use of the word “suspect” in this context requires some caution, as the “S” numbers have been applied to a very wide range of names, including the names of persons arrested in respect of the deaths at Kingsmill, persons suspected by police as having been involved in the deaths, persons wanted for questioning in respect of the deaths, persons named in intelligence as having been involved in or associated with the deaths, persons mentioned in anonymous telephone calls to police in association with the deaths and so on. There were in fact 129 names to which “S” numbers were applied for a multiplicity of reasons but principally due to concerns about rights to life and privacy under articles 2 and 8 of the European Convention on Human Rights. In maintaining this system the Inquest is cognisant of the absence of evidence implicating any individual in the Kingsmill attack which remains one of the most horrific incidents of violence in Northern Ireland’s Troubles. Only one suspect, Peter Cleary, was not anonymised.

[5] The glaring omission in the Inquest was the absence of any disclosure or evidence from those who caused the deaths. Unlike other “legacy” inquests which have examined the actions of the state in directly causing death, those responsible for the deaths at Kingsmill have not given an account either personally or through any organisation or any political party. Numerous calls to assist and provide answers were met with silence. Accordingly the Inquest did not receive disclosure from any individual concerned in the attack, nor their organisation nor their political representatives although expert evidence was given that records may well exist. Neither did the Inquest hear evidence from the perpetrators regarding matters such as the motivation for the attack, its planning and personnel and its execution. There has been no recognition by any perpetrator or their organisation or political representatives as to the utter wrongness of the attack which served to end the lives of 10 men and to devastate the lives of untold others.

### *The events of 5 January 1976*

#### *From the factory to Whitecross*

[6] The evidence of Alan Black, the only survivor of the attack, Richard Hughes (who was present in the vicinity of the attack), Charlotte McCone, Arnold Thompson and Sean McCann allows the Inquest to record the following account.

[7] The deceased men were all employees of John Compton Limited (otherwise known as Glenanne Mill or Glenanne Textile Factory) which operated a textile factory at Glenanne, County Armagh. The working day finished at 5.15pm and the deceased men and seven other colleagues boarded a red Ford minibus, registration number EIJ 987, which was parked outside the factory gate, in order to be driven home. The evidence confirmed that a number of firms operated a similar system whereby employees would be transported home. A concern was raised by some close to the Inquest suggesting that other workplace buses had been offered military protection on the evening of the attack but that was not borne out by the evidence. Drivers for other local businesses, McDermott Precast Concrete and Sinton's Linen and Flax Factory, gave evidence that they did not have such assistance and the contention of military protection for such vehicles can be dismissed as rumour without foundation. On the contrary the evidence confirmed that the security forces did not predict that a work bus would come under attack.

[8] The route taken by the John Compton Limited minibus was effectively the same every day and it always departed the factory at 5.20pm without delay. Mr Black, then aged 33 and employed for eight or nine months as a fitter at the factory, described the loading of the minibus and the seating arrangements as "an established routine" telling the Inquest that those who got out of the bus first sat nearest the doors.

[9] The minibus was driven by Robert Walker and Joseph Lemmon was in the front passenger seat. The rear seats consisted of a bench along the nearside and a bench along the offside of the minibus. There was a double door at the rear of the minibus. The evidence confirmed the positions of a number of the 17 people present. Alan Black was seated behind Mr Lemmon and Robert Chambers was seated to the right of Mr Black. Also on that side were Reginald Chapman, Walter Chapman and Kenneth Worton. John Bryans was seated directly behind Mr Walker. John McConville was between Mr Bryans and Richard Hughes and James McWhirter was to the left of Mr Hughes.

[10] The evening before the Kingsmill attack loyalist terrorists carried out a gun attack on the Reavey family at their home in Greyhilla, Whitecross which resulted in the deaths of three brothers. John Martin Reavey and Brian Reavey died from gunshot wounds at the scene and Anthony Reavey, who had also been shot, died on 30 January 1976. Mr Black told the Inquest that Joseph Lemmon had spoken to Robert Walker, the minibus driver, on the day of the Kingsmill attack and asked whether it would be a good idea to change the route because it would pass near the Reavey household, but Mr Walker said if he changed the route it would draw attention to themselves. Mr Black did not consider that the discussion was due to any perceived threat to the minivan.

[11] The vehicle proceeded south in the direction of Whitecross Village dropping off passengers Nan Baird, then sisters Charlotte and Sally McCone, then Arnold Thompson and finally Sean McCann, who left the minibus on the eastern side of Whitecross Village at approximately 5.30pm. From Whitecross Village the vehicle continued eastwards towards Bessbrook along the Kingsmill Road carrying the 10

deceased, Mr Black and Mr Hughes. There had been nothing unusual about the journey at this point. The rural road, just wide enough for vehicles to pass but without a central dividing line, was in darkness and it was raining. Papers from PONI considered by the Inquest indicate that Glynn Cutliffe, a police officer, who drove along the Kingsmill Road at 5.15pm on his way to work at Newtownhamilton Police Station, thought there was nothing suspicious in the area at that time. Later in these findings there is reference to an army patrol operating nearby the scene and led by MOD1, Major Ron Brotherton. There is reference in "serial 54" (supplied to the Inquest by witness MOD2) to the driver who had deposited the patrol having seen a man and two cars and a van on what is likely to have been the Kingsmill Road as he made his way back to Bessbrook. This may have been shortly after 5pm although the timings offered by MOD1, Major Brotherton, are uncertain. A grey haired man, dressed in a grey checked suit, is said to have waved down the van but the driver turned around and left hurriedly. No action appears to have been taken in response to the incident which may well have been innocent in nature. It did not form part of the police investigation. Two other witnesses, William Andrews and Mary Murphy, told the Inquest about their observations of the vicinity shortly before the attack.

[12] William Andrews, who made a statement to police on 6 January 1976, was on his way to visit The Manse, Lisadian, at 5.20pm, when he noticed a stationary car parked on the wrong side of the road facing in direction of Whitecross, 100 yards from Manse laneway towards Newry, its headlights on dip and its doors closed. Mary Murphy's statement of 8 January 1976 was entered into evidence. She told police that she had been travelling along the Kingsmill Road towards Bessbrook and at 5.30pm had slowed down outside The Manse to avoid water. She described there being a car behind her vehicle and meeting a "minibus" coming in the opposite direction. She did not get a good look at the minibus but said it was of a dark colour although not red and she described how the vehicles passed each other "very slowly" and that the car behind her then turned into Magee's Lane - this is likely to mean the Tullywinney Road. Her journey lasted another 10 mins and she was told of the massacre at 6pm. In the initial police investigation the investigating officer, Inspector James Mitchell, contended that the witness saw this dark coloured minibus after the attack but that cannot be correct as the road ahead would have been a scene of utter carnage and impassible for her vehicle. The Inquest cannot rule out the possibility that the minibus seen by Mrs Murphy played some part in the attack either as a scout vehicle or providing transport for terrorists or weapons, but the evidence shows that there were any number of minibuses operating legitimately in the area at the same time.

#### *From Whitecross to the scene of the attack*

[13] Mr Black told the Inquest that a short distance after Kingsmill Crossroads he became aware of a car travelling immediately in front of the minibus in the Newry direction. The car was not mentioned by Mr Hughes, but he was not as near to the front of the vehicle as Mr Black. Neither did Mr Hughes see the red light on the road

that brought the minibus to a halt although he heard it being mentioned by others present.

[14] In his original statement of 21 January 1976 Mr Black said that the car was 50 yards ahead of the minibus. He did not mention the car when initially spoken to by police on 9 January 1976 but that first interview was given against medical advice when Mr Black was in Daisy Hill Hospital, Newry, being treated for multiple injuries and at a time he thought he was going to die. It is unsurprising that the first interview does not contain much detail. In a statement of 12 June 2013 Mr Black said the car in front of the minibus was going so slowly that some on the minibus were saying "if he goes any slower he will stop" and that Mr Walker dropped the van to 2<sup>nd</sup> gear. In another statement of 27 April 2016 Mr Black said that the car in front of the minibus was two or three car lengths ahead of the minibus and was travelling very slowly. He said that the car appeared in front of the minibus as it approached the uphill incline that led to the scene. Mr Black told the Inquest that the car did not stop but drove on in the direction of Newry.

[15] The appearance of the vehicle shortly before the scene of the attack, its exceptionally slow speed which forced the minibus to second gear and the failure of its occupant to come forward after the incident persuade the Inquest that it was being used by the terrorists to identify and slow the minibus for the attack.

[16] Mr Black told the Inquest that the minibus travelled up a short, sharp incline when he became aware of a red light being waved in a circular manner from the ditch on the nearside of the road to his left. Both he and Mr Hughes remarked that the minibus stopped sharply, with Mr Hughes saying that the occupants were thrown forward.

[17] While Mr Black suggested in his evidence to the Inquest that the person who waved down the minibus was in the middle of the road, that runs contrary to his original statement which was taken shortly after the incident and contains more detail. It also runs contrary to what Mr Black told police when critically ill in hospital. In his first statement Mr Black described the man who waved the light walking from the nearside ditch across the front of the minibus to the driver's window. He said that three other men came out of a nearside gateway to a field just in front of where van had stopped and followed the man with the lamp. Contemporaneous mapping reveals a gateway to a field some six feet further down the road in the Bessbrook direction from the front of the minibus. In his initial interview Mr Black told police that he had seen the four men in the opening on the left of the road. Mr Black told the Inquest that all four men who had come out from the nearside of the minibus had their faces blackened and were wearing small, woollen, commando type khaki headgear, camouflage combat jackets and combat type trousers. He said the men all had rifles with wooden butts.

[18] The balance of the evidence supports the conclusion that the minibus, having been deliberately brought to a slow speed by a car, was waved down by a man emerging from the nearside ditch and using a red lamp. The man with the lamp



walked round to the driver's window and was followed by three others who emerged from a nearside gateway just in front of the minibus.

[19] Mr Hughes recalled Mr Walker putting his window down and asking, "What's wrong?" Mr Black said that Mr Walker was looking for his driver's licence but the man with the red lamp told him to turn out all the lights which he did. The road was left in darkness. The same man, the only one Mr Black heard speak throughout, shouted "Everybody out" and kept shouting "Out, out, everybody out." He appeared to have an English accent and Mr Black described him as aged 25/35 with a squat build and very cocky and nasty in his approach. In later statements Mr Black recalled the man's accent as being very upper class.

[20] The occupants exited the minibus, Mr Lemmon and Mr Walker by their front doors and everyone else by the rear, with Mr Black exiting last. While waiting to get out of the minibus Mr Black saw seven or eight men walking towards it from the Bessbrook direction. These men were a very short distance away when he first saw them and all were carrying rifles, wearing camouflage jackets, khaki trousers, gaiters and black boots. He told the Inquest that the same man who had spoken previously kept shouting "Everybody out" and he had thought it was a normal military check although as they exited Robert Chambers turned to him and said, "They're not Limeys." He told the Inquest that "it was the most natural thing in the world to be stopped by an army patrol."

[21] The use of a red lamp in a circular motion, the dress and appearance of the armed men and the use of a man with an English accent to issue the instructions to the occupants of the minibus were all cynically designed to give the impression that the minibus was being stopped by the Army. As law abiding members of the community the occupants of the minibus would be expected to comply unquestioningly with instructions given by the Army and they did so.

[22] Mr Hughes recalled that the same man who had ordered the men out of the minibus said, "Line up the side of the van and put your hands on it." The men lined up facing the minibus and the same voice as before ordered them to tighten up. Mr Hughes said his hands and those of the men on either side of him interlapped. Mr Black also remembered that the men were told to close up.

[23] In his original statement Mr Black said that he was ordered to put his hands against the rear of the minibus and described himself to be at the extreme left of the minibus next to the ditch with Robert Chambers to his right. He added that the men were lined up along the offside and rear facing the vehicle with their hands up and placed against the minibus. When he was first interviewed by police Mr Black told them that the men were lined up along the side and back of the minibus and that he and Robert Chambers were at the back of the minibus. However, at Inquest Mr Black gave evidence that his hands were against the open driver's side rear door of the vehicle and that the workers were all in a straight line and the gunmen directly behind them. The forensic scientist who examined the van, Gary Montgomery, recorded in his notes that the van doors were probably shut when the firing occurred. Police photographs of the scene picture the rear driver's side door

open. As the sole survivor of the attack and in the absence of other persuasive evidence, the Inquest defers to Mr Black's recollection of the open rear driver's side door.

[24] In his initial statement to police Mr Black said the man who stopped the minibus said something like "Who is the Catholic?" and that he repeated the question when nobody replied. In evidence to the Inquest Mr Black said there was no room for doubt about what was said. When he was initially interviewed by police while in hospital Mr Black is recorded to have said the terrorist asked, "Is any of you Catholics?" In a statement of 12 June 2013 Mr Black said "They then asked where the Catholic was ..."

[25] Mr Hughes, who was then aged 56, living in Bessbrook and employed as a wrapper at the Glenanne Mill, and who was the only Catholic on the minibus at that point, recalled the same man who had ordered them out of the vehicle ask, "Who's the Roman Catholic?" or "Who's the Roman Catholics?" at which point the men on either side of him, the one on his right being Walter Chapman, squeezed his hands. Mr Chapman and Mr Hughes glanced at each other, but nothing was said, and Mr Hughes did not move. Mr Black confirmed that Mr Hughes was not identified as a Catholic either by himself or any of the deceased.

[26] Mr Hughes heard the same man say, "Take that grey haired man out." He backed away from the minibus and the same person said, "Run down the road." Mr Hughes asked which direction and the man said, "Run down the fucking road." Firmly believing that he was going to be shot, he ran in the Newry direction, followed by two men who kept shouting "Run, run." After approximately 100 yards, past the Tullywinney Road to his right, the men told Mr Hughes to go over the wire fence to the right of the road, one of them pushing him to the right shoulder thereby causing him to fall over the fence where he lay face down in the bracken thinking he was to be shot.

[27] The Inquest is left in no doubt that the terrorists knew that there was a Catholic worker on the minibus. Moreover the Inquest is left in no doubt that the terrorists either knew Mr Hughes's identity or that they had a description of him that allowed him to be removed from his co-workers. Neither he nor any of the other men identified him as Catholic. The terrorists knew to remove this one man from the group based solely on his religion.

### *The shooting*

[28] Mr Black told the Inquest that the voice, which he thought was same man who had spoken throughout, said "Right" and there was a "tremendous burst of shooting" which went on for about 10 seconds. He described the noise as deafening. Mr Black said that he was shot to his right side and fell face down between the minibus and the ditch. Robert Chambers fell across his legs. Mr Black recalled terrible sounds of moaning and groaning from colleagues including Robert Chambers but said that he pretended to be dead. He recalled Mr Chambers,

who was aged just 18, calling for his mother. The same man who had spoken throughout said "Finish them off" and Mr Black heard another tremendous burst of gunfire. At Inquest Mr Black said that the noise of the second burst was completely different in that it was made up of single shots rather than a whole salvo or volley. He specifically recalled that one of the gunmen walked round from the front of the minibus and directed a number of shots at him and others. He also recalled a terrorist saying "there's one round the back" and he thought the reference related to John McConville. Mr Hughes recalled that a few seconds after he had been pushed over the fence, he heard a burst of automatic fire which he believed to be followed by a couple of single shots.

[29] The Inquest heard evidence from other witnesses who confirmed that the shots were fired in two sequences. William Andrews was visiting The Manse which is just to the Whitecross side of the shooting. As he reversed his car, he thought he had driven over something so wound down his window and shortly afterwards heard a burst of automatic fire of five seconds followed by a short silence and then six or seven single shots. Trevor Cartmill, an off-duty constable based at Newtownhamilton Police Station, was visiting his family home which was three or four fields away from the scene of the shooting. He recalled in his evidence to the Inquest that he had heard automatic gunfire shots and then went outside where he heard a second round of shots. This sequence is also in keeping with evidence from MOD1, Major Ron Brotherton, who was on patrol on the Tullyah Road.

[30] The Inquest is satisfied that the shooting took place in two separate sequences. The men, having been lined up facing the minibus, were disabled by the first round of firing. The terrorists, in their own words, then "finished off" the men on the ground with a second group of shots.

[31] The sequence was described by Professor Jack Crane who gave expert evidence to the Inquest concerning pathology. Professor Crane commented:

"... there does seem to be a pattern in all the cases, that we have a number of entry wounds to the backs of the bodies of all these deceased. And in addition to that, many of them had further wounds sustained to their head or neck area, and most of them had wounds to their lower limbs ... it's all entirely consistent with them having initially been shot in the back, collapsing onto the ground and then further shots directed into their body. Some into their head and many into their lower limbs."

[32] Professor Crane went on to say:

"what struck me in these cases is the very large number of bullets that were discharged into each body. And one can only assume that that was delivered in order to make sure that the individual was dead."

### *The scene immediately after the shooting*

[33] Mr Hughes said that when the shooting came to an end he shouted, "What am I to do, or where am I going to go?" and a voice from the road shouted "Stay there, and after a while thumb a lift to Bessbrook." No vehicles or people passed him, and he did not hear any vehicle drive off.

[34] In his initial statement Mr Black said that there was complete silence after the shooting. He said he remained semi-conscious and did not hear any vehicles start up or the sound of the footsteps of the gunmen leaving the scene. However, in a statement of 12 June 2013 Mr Black said that he saw the terrorists walk away in the Bessbrook direction and that they did not seem to be in any rush, continuing that "they must have known there was no Police or Army in the area." In a further statement of 27 April 2016 Mr Black described the gunmen walking calmly away along Kingsmill Road in the direction of the junction with Tullywinney Road. He said they did not appear to be walking in a group or in any form or formation. They appeared to be wandering away individually in their own time. When Mr Black was examined about his recollections, he maintained that he had seen the terrorists leave the scene and the Inquest does not question this evidence.

[35] Mr Hughes said that a short time after the shooting he saw a car approach from the Newry direction. He waved it down and explained what had happened to the young female driver who turned on the road, reversing into the gateway of the Maguinness bungalow - a neighbouring property further along the Kingsmill Road in the direction of Bessbrook - and drove him home to Bessbrook where he informed his family what had happened. The same driver then took him to Bessbrook Police Station where he reported the shooting at approximately 6pm. The driver remains unidentified. Mr Hughes, who was treated for shock in the aftermath of the attack, did not know the identity of the woman.

[36] The potential importance of tracking down and interviewing the woman who took Mr Hughes from the scene was recognised by the initial police investigation and is reflected in Job 60. Unfortunately there is no corresponding action noted and when he was asked about the matter the investigating officer was unable to assist the Inquest as to any steps taken to identify the witness. One of the detectives brought in from Belfast to assist the investigation, Detective Constable McAteer, told the Inquest that he had no memory of any proactive steps being taken to track her down. It is entirely a matter of speculation as to whether this witness would have had anything to add but the Inquest can understand the reluctance of people to come forward given the instability and violence of the times. The woman in question could not have misunderstood the context in which she lifted Mr Hughes. Had she wished to come forward she could have done so. The fact that she did not suggests either that she had nothing further to contribute or alternatively that she would have been unwilling to further contribute. The Inquest was reminded by Constable Charles Hamilton, then a police constable acting as liaison officer between the Royal Ulster Constabulary (hereafter the RUC) and successive battalions of the Army based at Bessbrook Mill, of the difficulty in engaging local people. He said that it was "basically impossible" to get information from local people no matter

how well they were known to the RUC. The Inquest is mindful of the ever present threat of violence against those who would have spoken out against terrorist factions. Nevertheless, this woman, arriving at the scene in the immediate aftermath of the attack, and the first person to hear Mr Hughes's account, was a potentially important witness and there ought to have been considerable efforts made by the initial investigation to establish her identity. Recent efforts to identify this woman for the purpose of the HET investigation and Inquest came to nothing.

[37] The Inquest does not find it in any way surprising that Mr Hughes reacted as he did by returning home. He had been through a terrifying ordeal and had thought he was going to be killed. He had been pursued and manhandled. He had heard ferocious gunfire and been given instructions by armed terrorists. In the shock that must have followed, and which was confirmed by his General Practitioner, Dr P J Ward, the Inquest does not draw any adverse inference from his returning home before going to the police station. The most direct route to his home would not, on the basis of maps, have taken him directly past Bessbrook Police Station.

#### *Route of terrorists from the scene*

[38] The evidence of Mr Black is that the terrorists made off calmly in the direction of Tullywinney Road. A number of possible suspicious sightings were reported to police. Information by way of the Confidential Telephone Line in Newry on 13 January 1976 suggested that men got out of an implicated van and made across fields and up through the back road at Carrickananny Chapel (by reference to maps this would be Drumnahunshin Road) and back into Carrickrovaddy. This was not followed up by police and Mr Mitchell, the officer in charge of the initial investigation, told the Inquest that nothing much could have been done with the information in any event. A van belonging to H&P Campbell that had been hijacked earlier on the day of the attack was seen by Kevin Lamph at the junction of the Maphoner Road with the Newry Road at 6.10pm. It was travelling towards Crossmaglen. That vehicle is dealt with later in these findings.

[39] The most persuasive evidence concerning the likely route of escape comes from an analysis of evidence given by William Rogers and Patrick Finnegan. William Rogers told the Inquest that at some time between 5.30pm and 6pm he had observed a large minibus with windows drive at speed down the Tullywinney Road and then turn right onto Carrowbane Road. The Carrowbane Road leads to Kesh Road. This information only came to light in 2016 and was not known to the original police investigation.

[40] Patrick Finnegan told the Inquest that he worked at Sintons Linen and Flax Factory, Tandragee. His role was to drive Sinton's Minibus, a blue and white Ford Transit with Sinton's written on each side. He would transport home 12-15 workers of mixed religions. On 5 January 1976 work finished at 5pm. As Mr Finnegan drove about six remaining passengers up Kesh Road from the Mountain House Pub, within 200 yards of a crossroads he was confronted by a large minibus travelling towards him. In his original statement to PONI he said that the minibus was red in

colour but in a subsequent statement he said that he could not remember its colour. The road was such that the two vehicles could not pass each other. He observed a man masked in a balaclava and armed with a dark rifle get out of the passenger door of the approaching minibus. The man told Mr Finnegan to reverse to allow his minibus to pass. Mr Finnegan did not recall if the other minibus had held passengers. The man spoke calmly when he asked Mr Finnegan to reverse, saying they were in a hurry. He said the man was not aggressive and did not swear. He did not recall if the man had an accent. Mr Finnegan said he reversed his minibus 20 yards into a gateway and afterwards continued to leave passengers home, unaware of what had happened at Kingsmill as that road was not on his route. He said he reached his mother's home after 6pm and saw the news. Two uniformed officers came and spoke to him but did not take a statement. Mr Finnegan had important information and it ought to have been explored by the original investigation. He ultimately made a full statement to PONI on 4 May 2016. Mr Finnegan said that he did not transport workers home for a few weeks after the attack.

[41] The evidence of Mr Black, Mr Rogers and Mr Finnegan is in keeping with at least one vehicle carrying a driver, a masked man and a weapon making its way down the Tullywinney Road, turning right onto the Carrowbane Road and then turning left onto the Kesh Road. The evidence of Mr Lamph is in keeping with the H&P Campbell vehicle making its way down the Newry Road towards Crossmaglen.

### *Those who lost their lives on the Kingsmill Road on 5 January 1976*

[42] In the wake of the attack Robert Walker, Joseph Lemmon, Reginald Chapman, Walter Chapman, Kenneth Worton, James McWhirter, Robert Chambers, John Bryans, Robert Freeburn and John McConville lay dead on the Kingsmill Road. In exploring the nature of the deaths the Inquest also wishes to record brief details about who these men were and the impact of their deaths on those close to them.

#### **Robert Walker**

[43] Robert Walker was born on 14 January 1929 in Tullyvallen, Newtownhamilton. He was a married man, employed as a driver, who at the time of his death aged 46 on 5 January 1976 lived at Halfacre, Lisdrumchor, Glenanne, County Tyrone.

[44] Elizabeth Quinn, Mr Walker's sister, gave evidence to the Inquest. She said her brother was known as Bobby and described him as kind and thoughtful and always working for the benefit of other people. Mrs Quinn said that Mr Walker would call with their parents every day and that his family was heartbroken by his death, his own father dying within a year of it. She said that nothing was too hard for Mr Walker, that he took pride in his work and that he was adept at using his hands, including for plumbing and electrical work, although he had no formal training. She described him as the factory owner's right hand man. Mr Walker had

a number of interests. He was brought up in Church and Sunday School and he was a member of Tullyallen Presbyterian Church where he was also on the committee. He was a member of the Orange Order. Mr Walker made go-carts and started a successful go--cart club in Glenanne.

[45] Mr Walker's life was pronounced extinct at the scene of death by Dr P J Ward. A sketch by Detective Sergeant Heasley, read in combination with the evidence of John Rodgers, confirms that the body was removed from the offside of the minibus to a stretcher by ambulance personnel before the arrival of police. Mr Walker was formally identified by his brother, Cecil Walker. An autopsy was carried out by State Pathologist, Professor Thomas K. Marshall at Daisy Hill Hospital on 6 January 1976. Professor Marshall concluded that the cause of Mr Walker's death was 1a) bullet wounds of the neck, trunk and limbs. Mr Walker had been hit by many bullets and fragments. Two bullets had struck the right side of the neck and gone downwards and to the left, one exiting through the left shoulder blade. Professor Crane told the Inquest that these would have been sustained when Mr Walker was lying face down. In evidence and in response to observations made by Professor Jack Crane, Professor Marshall said that there may actually have been three bullets that struck the right neck and then went downwards and to the left. He had been shot in the left shoulder blade and the right buttock. Three wounds between the shoulder blades may have been caused by perforation of a bullet which broke up and exited the body in two places. Mr Walker had also been shot to the back of the left elbow, inner right knee, outer left ankle and left heel. He suffered internal injuries to the left lung and small intestine and fractures to the spine, left shoulder and pelvis. Professor Marshall commented that the injuries were consistent with Mr Walker having been struck with bullets whilst upright and whilst lying on the ground. Professor Crane concluded that at least one bullet had struck Mr Walker's back when he was standing upright and the others were probably sustained when he was on the ground.

### **Joseph Lemmon**

[46] Joseph Lemmon was born on 14 February 1926 at Lisdrumchor. He was a married man, employed as a joiner, who at the time of his death on 5 January 1976, aged 49, lived at Orange Hall, Bessbrook, County Armagh.

[47] Mr Lemmon's daughter, Shirley Norris, gave evidence to the Inquest, saying that her father had been everything to her. She described him as a gentle giant who would have helped anyone. She told the Inquest how at the time of the death the family had been preparing for her wedding which her father did not get to attend.

[48] Mr Lemmon's life was pronounced extinct at the scene of death by Dr P J Ward. The sketch of the scene by Detective Sergeant Heasley records that the body was found at the rear nearside corner of the minibus, lying on its right side, the head pointing toward Bessbrook and the feet towards Whitecross, facing the roadside of the Bessbrook bound lane. Mr Lemmon was identified by Thomas Priestley.

[49] An autopsy was performed by Dr Derek Carson at Craigavon Hospital on 6 January 1976. Dr Carson concluded that the cause of Mr Lemmon's death was 1a) laceration of brain due to b) gunshot wounds of head. He had been struck by three bullets in the head. Two of these bullets had entered the back of the left side of the head and passed forwards and downwards through the skull and brain to exit from the right side of the face, causing rapid death. The other had entered the left side of the scalp above the ear and emerged at the outer angle of the left eye. Mr Lemmon was shot twice to the back, one bullet passing from left to right through the back of the chest, lacerating the lungs and passing through the spine. He had also received bullet wounds to the back of his left hand, the inner aspect of the right knee and the left buttock as well as other wounds caused by fragments. Dr Carson commented that Mr Lemmon had been struck by eight or more bullets and many fragments. He concluded that the shots had been fired from behind Mr Lemmon and somewhat to his left. Professor Crane gave evidence that the trajectory of the bullets to the back were in keeping with Mr Lemmon leaning forwards against the minibus and that bleeding into the lungs indicated that these wounds were sustained before he was shot to the head. He told the Inquest that the head wounds were likely to have been sustained while Mr Lemmon was lying face down on the ground. Damage to the trousers he had been wearing indicated that he had been shot at close range. Jacynth Hamill, Forensic Scientist, Department of Industrial and Forensic Science, gave evidence concerning the difficulty she had in examining the clothing of the deceased due to poor condition and saturation with blood when she examined exhibits received on 8 January 1976. She said that close range meant less than three feet from muzzle to target.

### **Reginald Chapman**

[50] Reginald Chapman was born on 5 November 1946 at Bessbrook. He was a married man, employed as a card cutter, who at the time of his death aged 29 on 5 January 1976 lived at 11 Thomas Street, Bessbrook, County Armagh. Life was pronounced extinct at the death scene by Dr P J Ward. The sketch of the scene by Detective Sergeant Heasley indicates that Mr Chapman's body was found on his back at the offside of the minibus, situated at a diagonal so the feet were towards the minibus at its centre and the head towards the middle of the road but parallel with the bonnet area of the minibus. Mr Chapman was identified by his uncle, Johnstone Chapman.

[51] An autopsy was performed by Dr Derek Carson at Craigavon Hospital on 6 January 1976. Dr Carson concluded that Mr Chapman's cause of death was 1a) multiple injuries due to b) gunshot wounds of trunk. Death would have been very rapid. Eleven bullets had entered the back of the trunk and passed forwards through the chest and upper abdomen. A further bullet had passed through the left hip, another damaged the back of the left knee and another passed through the left lower leg. The left index finger had also been struck. Mr Chapman sustained internal injury to his heart, lungs, aorta, oesophagus, liver, spleen and stomach. Dr Carson stated that the bullets had passed forwards through the body from back to



front with a slight upwards inclination. They were fired from behind Mr Chapman and their trajectory suggested he may have been bending slightly forward when shot. Professor Crane concluded that it was likely Mr Chapman had been standing, leaning slightly forward and facing the side of the minibus when he was sprayed with bullets. He collapsed on the ground and had been shot again to the left hip and left leg. Mr Chapman was not shot in the head although Professor Crane gave evidence that a bullet casing found in his hair might indicate that a shot had been aimed at his head.

### **Walter Chapman**

[52] Walter Chapman was born on 15 November 1940 at Bessbrook. At the time of his death aged 35 on 5 January 1976 he was unmarried, employed as a factory labourer and living at 25 Thomas Street, Bessbrook, County Armagh. The Inquest was particularly moved by the humanity demonstrated by Mr Chapman who, at the scene of the atrocity, when the men were lined up and asked by the terrorists to identify which person was Catholic, squeezed Mr Hughes's hand in solidarity.

[53] Life was pronounced extinct at the scene of death by Dr P J Ward. The sketch by Detective Sergeant Heasley indicates that Mr Chapman's body was found adjacent and parallel to the rear offside wheel, head pointing in the direction of Bessbrook and feet towards Whitecross. Mr Chapman was identified by his uncle, Johnstone Chapman.

[54] An autopsy was performed by Dr John R. Press at Craigavon Hospital on 6 January 1976. The cause of death was 1a) bullet wounds of head, trunk and limbs. Mr Chapman had been shot by at least 13 and possibly 17 high velocity bullets, causing his very rapid death. A bullet had entered the left side of the neck and passed upwards to the right through the skull, lacerating the brain and hind brain and exiting on the right of the scalp. He had been shot twice to the right side of his face and twice to the right of the neck. Another bullet had grazed the forehead. Four bullets had struck Mr Chapman's trunk, one to the front of the right shoulder which lacerated the spinal cord, the others to the left side lacerating the left lung, aorta, liver, spleen, stomach and both kidneys. Dr Press described two of these wounds to the trunk as being entrance wounds to the left side of the back. Bullets had traversed both arms, another struck the right shin, another the inner side of the left thigh, another the front of the left thigh. The trajectory of the gunfire indicated that some of the bullets had struck Mr Chapman as or after he collapsed.

[55] Professor Crane told the Inquest that more than one gunman was involved and shots were fired from different directions. At least some of the injuries were sustained when Mr Chapman was on the ground and probably on his back. He said that the entrance wounds to the left side of the back of the chest could have been sustained when Mr Chapman was standing and leaning forward against the side of the minibus. He considered it likely that the head wounds had been sustained when Mr Chapman was on the ground.

## **Kenneth Worton**

[56] Kenneth Worton was born on 14 February 1951 at Loughgilly. At the time of his death aged 24 on 5 January 1976 he was a married man, employed as a machinist and living at 60 The Gardens, Bessbrook, County Armagh.

[57] Mr Worton's mother, Beatrice Worton, gave evidence to the Inquest. She described him as a lovely boy who did well at school and Sunday School and had gone on to become a machinist at the Mill, being promoted to foreman shortly before his death. She said that Mr Worton had a six-year-old daughter and a three-year-old daughter when he died, and she described the terrible impact of his death on their welfare. Mrs Worton described hearing the news of the attack and going to Daisy Hill Hospital and then returning home to the support of all members of her local community.

[58] Mr Worton's life was pronounced extinct at the scene of death by Dr P J Ward. The sketch by Detective Sergeant Heasley indicates that Mr Worton's body was found towards the front offside of the minivan, situated on his left side and facing Whitecross, at a diagonal so the head was towards the middle of the road and parallel with the bonnet of the minibus and the feet towards the driver's door. Mr Worton was identified by his brother in law, William O'Brien.

[59] An autopsy was performed by Dr John R. Press at Craigavon Hospital on 6 January 1976 and Mr Worton's cause of death was found to have been 1a) bullet wounds of head and trunk. He had been struck by at least eight but possibly nine bullets of high velocity. Three bullets had entered the head, two on the top of the scalp and one on the left side on the back and these caused severe laceration of the brain. Three bullets had entered the right side of the back of the trunk, another to the left shoulder which exited on the right side of the back of the chest. Mr Worton sustained lacerations to the lungs, liver and large intestine. He had also been shot to the right thigh and front of the right arm. The trajectory indicated that some bullets had struck Mr Worton after he collapsed. Professor Crane told the Inquest that it was inconceivable that a wound to the very top of Mr Worton's head could have been sustained other than when he was on the ground, and he concluded that all three head wounds were sustained on the ground as a result of a high velocity bullets. His evidence was that three bullets had been directed into the back of the right trunk while Mr Worton was standing and upon collapse he had then been shot in the chest and then the head.

## **James McWhirter**

[60] James McWhirter was born on 12 April 1912 at Glenanne. At the time of his death aged 63 on 5 January 1976 he was a married man, working as a cloth finisher and living at 27 Ulster Cottages, Bessbrook, County Armagh.

[61] Mr McWhirter's grandson, Gary Bradley, who was aged 11½ at time of the attack, gave evidence concerning his grandfather. He said his grandfather was a tough man who was a hard worker but great fun and very kind and generous. He

said that the attack represented the most extraordinarily traumatic episode for the family, with reverberations continuing today.

[62] Life was pronounced extinct at the scene of death by Dr P J Ward. The sketch by Detective Sergeant Heasley indicates that Mr McWhirter was found lying on his back at the rear offside corner of the minibus, his head pointing in the direction of Whitecross and his feet in the direction of Bessbrook. Mr McWhirter was identified by John Brown.

[63] An autopsy was performed by Dr John R. Press at Craigavon Hospital on 6 January 1976. Mr McWhirter was found to have died from 1a) bullet wounds of head and trunk. He had been struck by 11 bullets of both high and low velocity. Three bullets had entered the left side of the head, one exiting from the top of the head and the others from its right side, and they had caused severe laceration of the brain. Five bullets had entered the left side of the trunk and Mr McWhirter had also been shot in each buttock. He had suffered laceration of the heart, aorta, lungs, liver, spleen, intestines, rectum, bladder and iliac arteries together with a fractured spine and pelvis. Mr McWhirter also sustained a bullet wound to the outer right shoulder. Most of the shooting had been from Mr McWhirter's left side and some bullets had struck him as or after he collapsed. Professor Crane gave evidence that the presence of multiple small fragment wounds on the left side of the face suggested that the bullet wound on the left cheek and possibly the other head bullet wounds were sustained when Mr McWhirter was lying face downwards on the ground, his left cheek exposed, and were sustained after he had been shot in the trunk.

### **Robert Chambers**

[64] Robert Chambers was born on 16 April 1957 at Bessbrook. At the time of his death aged 18 on 5 January 1976 he was unmarried, working as an apprentice fitter and living at 20 Charlemont Square West, Bessbrook, County Armagh.

[65] The Inquest heard from William Chambers who is the brother of the deceased. Mr Chambers reflected on his brother's youth and said he was a "happy lad" with everything going for him. He recalled, in particular, Mr Chambers's friendship with Alan Black. He also reflected that Bessbrook was a Quaker village and that the attack had not succeeded in turning people against each other. Mr Black's own evidence to the Inquest reflected upon the ethos found in the village. He said:

"We all came from the one village ... Everyone grew up beside one another and we worked together, we played together. It was just a small village ... Bessbrook back then was a Quaker village, and it had the Quaker values."

[66] Life was pronounced extinct at the scene of death by Dr P J Ward. The sketch by Detective Sergeant Heasley indicates that Mr Chambers was found between the rear nearside of the minivan and the Bessbrook bound verge, the head towards Bessbrook and the feet towards Whitecross. This is in keeping with the evidence

from Mr Black who recalled Mr Chambers being at the back of minibus with him and falling on top of Mr Black when shot. Mr Chambers was identified by Henry McVicker, his brother in law.

[67] An autopsy examination was carried out by State Pathologist, Professor Thomas K Marshall at 10.45am on 6 January 1976. Professor Marshall concluded that the cause of death was 1a) bullet wounds of head and trunk. Mr Chambers had been struck by seven or eight bullets. The first bullet struck him to the front of his body, to the left loin, while he was upright. This may also have caused a perforation to his left thumb although that may have been due to another bullet. The remaining bullets were fired from the head end of his body as he lay face down on the ground. He was shot to the right temple, to the front of the right shoulder, twice to the right side of the back and to the right wrist. He was also shot to the right of the scalp about four inches above the ear, the bullet travelling vertically downwards through the skull and brain and emerging on the right side of the neck. Professor Marshall said that this injury was sustained when Mr Chambers was lying on the ground. He told the Inquest that the bullets to the head had not been at close range. Professor Crane said he could not rule out the possibility of close range discharge into areas covered by clothing.

### **John Bryans**

[68] John Bryans was born on 3 March 1925 at Kilbracks, Markethill. At the time of his death aged 50 on 5 January 1976 he was widowed, working as a loom overseer and living at The Bungalows, Cloughreagh Park, Bessbrook, County Armagh.

[69] Tom Bryans, the deceased's son, gave evidence to the Inquest. Mr Bryans's death left his children without a mother or father and the family was taken in by an elderly great aunt and uncle. Mr Bryans reflected that he never really got to know his father because of the attack.

[70] Life was pronounced extinct at the place of death by Dr P J Ward. The sketch by Detective Sergeant Heasley indicates that Mr Bryans was found lying on his left side, some distance behind the rear nearside of the minibus, his head towards the nearside edge of the road and his feet pointing towards the centre of the road. Mr Bryans was identified by Thomas Priestley.

[71] An autopsy was performed by Dr Derek Carson at Craigavon Hospital on 6 January 1976. Dr Carson concluded that the cause of death was 1a) Laceration of aorta, lungs and trachea due to b) gunshot wounds of chest. Mr Bryans had been struck by at least 13 bullets of high velocity. Three bullets had entered the back of the chest and passed forwards through the chest, lacerating the lungs, aorta and windpipe. These had caused his rapid death. Dr Carson stated that the trajectory suggested Mr Bryans was bending slightly forward when he was shot by these bullets and Professor Crane said the wounds were in keeping with him standing and leaning against the minibus. Mr Bryans was also shot to the left forearm, the left hand, the left buttock and upper thigh, the right thigh, the right leg and right foot. All the shots were to the back of his body and Mr Bryans was not shot to the head.

Professor Crane gave evidence that the likelihood was that all but the three bullets to the back were fired after Mr Bryans had collapsed to the ground.

### **Robert Freeburn**

[72] Robert Freeburn was born on 9 October 1917 at Keadybeg, Mountnorris. At the time of his death aged 58 on 5 January 1976 he was married, working as a machinist and living at Eshwary, Bessbrook, County Armagh.

[73] The Inquest heard evidence from Robert Freeburn, the deceased's nephew, who had also been working at the Mill and knew all the deceased. The witness said that he had been an occasional relief driver of the minibus and that the firm had used two minibuses going in different directions although that had stopped after the attack. Helpfully, Mr Freeburn was able to confirm that the minibus took the same route every day without variation.

[74] Life was pronounced extinct at the place of death by Dr P J Ward. The sketch by Detective Sergeant Heasley read in combination with the evidence of John Rodgers confirms that the body was removed from the offside of the minibus to a stretcher by ambulance personnel before the arrival of police. Mr Freeburn was identified by Thomas Priestley. An autopsy was performed by State Pathologist, Professor Thomas K Marshall, at Daisy Hill Hospital on 6 January 1976. Professor Marshall concluded that the cause of Mr Freeburn's death was 1a) bullet wounds of the head, neck, trunk and limbs. He commented that Mr Freeburn had been riddled with bullets most of which had gone right through his body and that his death would have been rapid. He suffered internal injuries to the heart, lungs, aorta, liver, gall bladder, pancreas and intestinal tract and his pelvis had been fractured. One bullet had struck the tip of his nose, struck the base of the skull, lacerated the brain and gone on to exit at the nape of the neck. Another, recovered at autopsy, had struck the left of his mouth and ultimately fractured the spine in the neck.

[75] There were five bullet holes on the front of the chest and a large gaping laceration near the left nipple. There were five bullet holes in a line across the back of the shoulders indicating, according to Professor Crane, that the same gunman had fired rapidly across the back discharging five rounds, two further down the back and another in the buttock area. There were four bullet holes on the left upper limb and four on the right upper limb and 11 on the left lower limb. Lacerations were sustained on areas including the back of the right hip, left lower limb (one of which exposed the lacerated femoral artery) and the right lower limb.

[76] Professor Marshall told the Inquest that the bullet wounds to the back were in keeping with Mr Freeburn being shot while standing. Professor Crane's opinion was that Mr Freeburn had been "sprayed" with bullets initially while standing upright and then whilst he was lying on the ground. He considered it likely that more than one gunman inflicted the injuries given the different direction of the injuries and the bullet fragments recovered. Professor Marshall considered the facial wounds more likely to have been sustained when standing but Professor Crane was

of the view that they were more likely to have been sustained when Mr Freeburn was on the ground. Professor Crane based his findings on the fact that the bullets had been directed slightly downwards which suggested that the gunman would have been at a greater height than Mr Freeburn. The Inquest accepts Professor Crane's interpretation. Given Mr Black's evidence as to how the attack was carried out there is no doubt that Mr Freeburn was shot to the face while he was on the ground.

### **John McConville**

[77] John McConville was born on 13 February 1955 at Bessbrook. At the time of his death on 5 January 1976 he was aged 20. He was unmarried, working as a cloth finisher and living at 30 Moninna Park, Bessbrook, County Armagh.

[78] Mr McConville's sister, Karen Armstrong, gave evidence to the Inquest, saying that she remembered her only brother with admiration and love. She described him as full of fun, with many friends and touching many lives. He had become a Christian at age 16 and attended Newry Baptist Church. Such was his faith that he planned to attend Glasgow Bible College and then work as a missionary. He had been studying while working at the Mill and a letter offering him a place at the College was received the day after his death. Mrs Armstrong described it as having been a privilege to live in Bessbrook where all members of the community lived side by side and displayed core values of tolerance, compassion and honesty. She told the court about having to learn details of the death from the press rather than any official agency which compounded the sadness felt by the family. Mrs Armstrong gave a particularly poignant account of having visited the scene of the attack. The attack had taken place on Monday, and she recalled visiting either the next Friday or Saturday. It concerned her that she found 30 or 40 cigarette butts behind a ditch opposite where the minibus had come to a rest. There does not appear to have been any discussion between the family and the police concerning the observation but as Mrs Armstrong has demonstrated and the police have accepted, family liaison was not a feature of policing at the relevant time. The Inquest was furnished with mapping and forensic diagrams from 5 and 6 January 1976. The ditch in question is included in the material which includes measurements of the height of the bank, the height of hedging and the dimensions of a gap in the undergrowth. It seems that the area came under detailed inspection on 5 and 6 January 1976 and given the materials that were recovered it is unlikely that cigarette butts would have been missed. The Inquest recognises that DNA evidence was not available at the time the area was examined. In the four or five days after the attack there could have been numerous people at the scene, and it is likely that there is an innocent explanation for the collection of cigarette butts.

[79] Life was pronounced extinct at the place of death by Dr P J Ward. The sketch by Detective Sergeant Heasley indicates that Mr McConville was found at the rear nearside corner of the minibus and suggests that he was on his right side, facing the nearside verge, his head towards Bessbrook. Mr McConville was identified by Samuel Burns.

[80] An autopsy was performed by Dr Derek Carson at Craigavon Hospital on 6 January 1976. Dr Carson concluded that Mr McConville's cause of death was 1a) laceration of brain associated with fractures of skull due to b) gunshot wounds of head. He had been struck by at least eight bullets and many fragments. A bullet had entered the right side of the upper neck below the angle of the jaw, passing upwards, forwards and from right to left at an angle of 45 degrees through the base of the skull and the brain and exiting on the left side of the forehead. This bullet caused Mr McConville's rapid death. He had also been shot in the back of the right shoulder and to the right cheek and forehead. Mr McConville was also shot in the right arm both below the elbow and above the wrist and in the left forearm below the elbow. He had been struck to the right hip, right foot and right calf. Dr Carson concluded that the bullets had been fired from behind Mr McConville possibly when he was bending forwards. Professor Crane gave evidence to the Inquest that the fatal head wound could have been sustained when Mr McConville was standing, if his head had been bent forward, or whenever he was lying on the ground. He told the Inquest that it was his view that Mr McConville was initially shot while standing, leaning forward against the minibus, and then that he was shot again while he was on the ground. There had been a close range shot to the left edge of the hood of the deceased's anorak.

#### *The immediate aftermath of the attack*

[81] It is unsurprising given the utter horror of the scene, the fast moving sequence of events, the passage of time and the paucity of contemporaneous accounts that there is some considerable confusion as to who arrived on the road, in what order and what actions were taken. The obvious focus for all who arrived was to assist in whatever way possible. What is clear, however, is that at 5.37pm on 5 January 1976 a 999 call was made to Newry Police Station reporting the shooting. The call was made by a male from the home nearest to the scene of the shooting, that of the Magee family, whose farm was on the Tullywinney Road. Information recorded in a Station Occurrences Book points to the police then having phoned Mrs Magee who told them there were dead lying everywhere.

#### *Witnesses arriving from the Bessbrook side of the scene*

[82] Mr Black, who had been shot multiple times in the attack and was gravely injured, recalled that shortly after the shooting a lorry approached from the Bessbrook direction and stopped with its headlights on, but he said that the driver did not come forward. He said that a car then stopped behind the lorry and its driver, Gerry McKeown, came over and stayed with him. In a later statement he recalled Mr McKeown being in a terrible state and having said a prayer for the dead. He remembered that a nurse arrived on the scene and gave him assistance until the ambulance arrived. He also recalled a local priest at the scene although in a later statement he clarified this person being at the hospital rather than the scene.

[83] The first to arrive on the scene from the Bessbrook side were Gerard Byrne and Charles Hughes. On the evening in question Mr Byrne had been a passenger in a blue Bedford tipper truck being driven by his brother in law, Charles Hughes. Mr Byrne made his initial statement to police on 13 January 1976 and made a further statement to an interest group, Justice for Innocent Victims of Terrorism, on 26 July 2013 and a further statement to PONI on 21 June 2016 each of which was adopted as evidence at the Inquest alongside his oral testimony.

[84] Charles Hughes made a statement to PONI on 27 April 2016 which was admitted as evidence to the Inquest. He recalled having made his identity known to police at the time but said they did not turn up on several occasions to take a statement. Job 64 of the Police Actions indicates that Mr Hughes, alongside Mr Byrne and Mr Gerry McKeown, were noted to have been present at the scene by Constable Cartmill *upon his own arrival*. The officer in charge of the initial investigation, Mr James Mitchell, accepted in his evidence to the Inquest that a statement ought to have been sought from both Mr Hughes and Mr McKeown (who was also not spoken to by police at the time of the killings), although he considered it unlikely that these would have contributed materially to the criminal inquiry.

[85] Mr Hughes said that shortly after 5.30pm as his truck was approaching the junction with the Tullywinney Road he saw a red van ahead which he thought had been in an accident. He said he stopped his truck just short of the junction with the Tullywinney Road (which he referred to as Magee's Lane) and observed a Mini do a three point turn in front of his vehicle. He saw Richard Hughes getting into the passenger seat of the Mini and noted that it drove off towards Bessbrook. In his initial statement Mr Byrne said he saw a Mini facing the direction of Whitecross do a three point turn at a point before the truck arrived at the scene, either at the brow of a hill on the Bessbrook side of Magee house or about a mile on the Bessbrook side of Robbie Maguinness's house. He said that Mr Charles Hughes had stopped their truck on the Whitecross side of Magee's. Concerning the location of the Mini the Inquest prefers the contemporaneous evidence of Mr Byrne which is more in keeping with that of Richard Hughes and Anne McKeown. The most persuasive evidence comes from Mr Richard Hughes himself - the Mini turned on the road by using the Maguinness gateway.

[86] Mr Charles Hughes recalled that both he and Gerard Byrne got out of the truck and walked to the scene whereupon Mr Byrne ran back to the lorry and drove into Tullywinney Road to the first farm on right, the home of the Magee family. It is clear that the lorry was not used by Mr Byrne to go to the Magee house and that Mr Hughes is wrong on this point. Mr Hughes said that he was left alone with the bodies for possibly 15 minutes but that is untenable given the weight of evidence from a myriad of witnesses. Mr Hughes recalled that the next person on the scene was Nurse Mary Kennedy who found Alan Black alive, shouted for help and that others went to his aid. Again, Mr Hughes is incorrect as the weight of evidence supports the arrival of the McKeowns on the scene.

[87] Mr Byrne said in his original statement that he had left Mr Hughes at the scene and ran to Magee house where he dialled 999 and he confirmed at Inquest that



he had made his way on foot. In his 2013 statement he said that he ran to Magee house after having discovered Mr Black and placing him in the recovery position, but Mr Black recalled that it was Mr McKeown who initially came to his assistance. Neither did Mr Hughes make any allusion to the men having found Mr Black. The weight of evidence supports the conclusion that Mr McKeown first discovered Mr Black to have survived the attack.

[88] In his 2013 and 2016 statements Mr Byrne added that the Magee family had placed a tractor up against their door. He said that he had spoken to Mrs Magee when she had appeared at a window above the porch and that she told him she had heard the shooting five or 10 minutes beforehand.

[89] In his later statements and his evidence to the Inquest Mr Byrne clarified that it was not him who had phoned the police from the Magee house but that he had returned to the scene after speaking to Mrs Magee (2013) or after she had phoned the police (2016). In his initial statement Mr Byrne told police that Henry Magee, his wife and sons came back to scene. In his 2013 and 2016 statements Mr Byrne said that when he returned to the scene, he saw Nurse Kennedy tend to Mr Black. In 2013 and 2016 he also said that the first vehicle to arrive on the scene from the Whitecross direction was driven by Eugene Reavey - a brother of the men murdered the previous evening - who he told what had happened and who turned his car around, however at the Inquest Mr Byrne gave evidence that Mr Reavey had left his car and walked to the bodies. Mr Mitchell, the officer in charge of the Kingsmill investigation, was asked about his decision not to question Mr Reavey, one he indicated was made because he thought it would be indiscreet in the circumstances. He also said it was his understanding that Mr Reavey had come across the scene after the shootings and that is in keeping with Mr Byrne's evidence. In his evidence to the Inquest Mr Byrne suggested that on his return to the scene there were 50 or 60 people milling around, that there was no effort to protect the scene and that people were lifting bullet casings and putting them in their pockets.

[90] In his statements of 2013 and 2016 Mr Byrne recalled Constable Trevor Cartmill at the scene and in 2016 he said that he recalled him arriving in his Ford Cortina. Constable Cartmill was known to Mr Byrne and they had a mutual interest in cars. Mr Hughes also recalled Constable Trevor Cartmill coming on the scene and Constable Cartmill asking Mr Hughes what he was doing there.

[91] In his initial statement Mr Byrne said that he had left the scene at 6.45pm however in his 2013 statement he made allusion to the police and army not arriving until 2½ hours later and in his 2016 statement and evidence to the Inquest he referred to leaving in and around 8.30pm. Mr Hughes, who recalled a lot of activity with both army and ambulances, said that he would probably have left at around 8.30pm.

[92] Gerry and Anne McKeown arrived on the scene shortly after Mr Hughes and Mr Byrne. Gerry McKeown made his first statement to PONI on 10 May 2016 although he had been spoken to by the HET in 2010. He was not spoken to by police

at the time of the atrocity. Anne McKeown made a statement to the Coroners Service for Northern Ireland on 19 May 2016.

[93] In January 1976 Mr McKeown was employed as a school teacher. On the evening of 5 January 1976 he was driving his brown Triumph Toledo EIJ 910 to Whitecross from Newry. His wife Anne, also a school teacher, and his two young children were with him in the car.

[94] Mr McKeown said he saw a Mini turn on the road as he approached the Tullywinney Road and in his oral testimony he continued that it could have been a minute or a mile before the Tullywinney Road or it could have been a lot closer. Mrs McKeown's testimony was much more certain regarding the location of the turning Mini although she could not remember anything about the car or its passengers. She said the Mini turned on the Newry side of the McGuinness's farm. Mrs McKeown was actively looking for cars on the road as she had hoped to find someone to give Mr McKeown a lift to Newry where he was to pay his respects to the Reavey brothers murdered the previous night. She told the Inquest that no other vehicles had passed them on the Kingsmill Road. Her evidence surrounding the broad location of the Mini and the traffic on the road is accepted by the Inquest.

[95] Mr McKeown recalled that a lorry had stopped just before the Tullywinney Road and Mrs McKeown agreed with him concerning its location. He told the Inquest that the driver stood by the lorry and said "you don't want to go up there" but Mr McKeown went up to the scene. At first, he saw no sign of life and he placed his coat over one of the deceased and said a prayer. In the course of his oral testimony Mr McKeown said "When I arrived initially there was absolutely nobody there ... because I was conscious that I stood in the middle of the road, and I said a prayer out loud ..." The reference to saying a prayer is, however, in keeping with the evidence of John Moley who had approached the scene from the Whitecross side and said he met Mr McKeown by the minibus, and they had prayed together. Mr McKeown told the Inquest he had then heard groans and returned to his car. Mrs McKeown recalled her husband had been away for a matter of minutes and returned in tears and distraught but saying that someone was alive.

[96] The Inquest finds that Mr Hughes and Mr Byrne were the first on the scene from the Bessbrook direction. It is likely that when Mr Byrne ran to get help, Mr Hughes retreated to his truck where he spoke to Mr McKeown. Mr McKeown then proceeded to the scene, heard Mr Black groaning, and returned to his wife.

[97] Mrs McKeown asked a woman called Mary Shields in the car behind them to look after the McKeown children. She also directed other drivers to get help, recalling that five or six cars had started to arrive. She said she asked one man to go to the McGuinness house and another to go to the Magee house. The McKeowns both then went to scene where they found Mr Black lying in a ditch at the back of van. Mr McKeown said they were the only ones present at that time. Mrs McKeown recalled that her husband knelt beside Mr Black and tried to locate his injury and that he had put a coat around him. Mr McKeown recalled that Mr Black asked after the other men and said "tell my wife to look after the children." Mrs McKeown left

the scene and said that the man she had asked to go to Magee house told her that Henry Magee would not open the door to him so she took her car to the house where she physically banged on the door, told Henry Magee what had happened and instructed him to call the emergency services although she did not remember if he had done so. Mrs McKeown said she returned to the scene.

[98] Mrs McKeown is a persuasive witness and the Inquest found her to be a good historian. Her evidence concerning the potential making of the telephone call to emergency services by Henry Magee is in keeping with the records before the court that a man made the call from the house. The difficulty experienced by the man who she had asked to approach the Magee house chimes with the evidence of Mr Byrne concerning the precautions the family had taken to protect their home the night after the attack on the Reaveys. It is likely that Mr Magee made the call to emergency services at the behest of Mrs McKeown.

[99] Mr McKeown said that he stayed with Mr Black until Nurse Kennedy came and took over. Mary Kennedy made a statement to police on 14 January 1976, and it was entered into evidence. She had left Newry at 5.30 to 5.40pm and approached the scene from that direction. She found herself in a line of traffic and boys told her that men were lying on the road. A woman she described as a nurse, but who is likely to have been Mrs McKeown, asked her to assist Mr Black and she treated him for shock until ambulance arrived. She knew the Magee family and saw them there.

[100] Mr McKeown said he was at the scene for 15 to 20 minutes and that he did not recall seeing police, army, ambulances or a helicopter. While there both he and Mrs McKeown observed Henry Magee pick up what they took to be cartridges although Mrs McKeown said in her evidence that she did not actually know what he had picked up. Mrs McKeown recalled Mrs Magee also being at the scene and Mr McKeown recalled John Moley being present. After leaving the scene the family went to the Magee house until later in the evening.

[101] Francis Canning, whose contemporaneous but undated statement was entered into evidence, had been travelling from Newry with his family when his Hillman Hunter car came to a stop behind the McKeowns' vehicle. He recalled that a Morris Oxford or Austin Cambridge car had passed him on the Kingsmill Road. It is possible that this was a car turning due to the disruption ahead as Mrs McKeown, who was actively seeking out traffic travelling towards Newry, gave persuasive evidence that no other car passed her vehicle on the Kingsmill Road. The Serious Incident Log records at entry 33 that the police examined information concerning a number of matching cars and that the matter had been resolved as not relevant but without further explanation. A man approached Mr Canning and said to wait as people were lying dead over the road, but he does not appear to have taken any further role.

[102] John O'Hanlon who made a statement to police on 14 January 1976, which was entered in evidence, said that he was driving from Camlough to Whitecross when he was flagged down by Mrs Magee just past her lane. No vehicles had passed him on the road. She told him there had been an accident or an ambush and

she placed blankets in his van, and he gave her a lift for about 100 yards before they were blocked by stopped vehicles. He had seen Mr McKeown, Nurse Kennedy and Constable Cartmill at the scene alongside others and he noted an ambulance and police arrive although he said he was only there for four or five minutes. Mr O'Hanlon was one of two witnesses, alongside Vincent Lamph, noted at entry 21 of the Serious Incident Log to have been at the Kingsmill scene on the arrival of police.

*Witnesses arriving from the Whitecross side of the scene*

[103] Mr William Andrews appears to have been the only civilian witness arriving from the Whitecross direction to have given a statement to the original police inquiry. He spoke to police on 6 January 1976. Having heard the shooting from The Manse he observed cars arrive at the scene from an upstairs room. About 20 minutes later he drove to the scene, parking behind a car or two cars. He recalled three or four police officers being present and half a dozen or so others including Vincent Lamph and he said that a helicopter was hovering overhead. He recalled seeing Mrs Magee help with the stretcher carrying Mr Black.

[104] John Moley, who made a statement to the Coroners Service for Northern Ireland on 19 May 2016 gave evidence at the Inquest that on the evening of the attack he was driving his grey Austin Farina alongside a passenger, John Malone. Mr Malone, who gave a statement to the Coroners Service for Northern Ireland on 25 May 2016 and who also gave evidence at the Inquest, confirmed that they had been travelling in the direction of Newry. While Mr Malone recalled the car being stopped as it approached the Kingsmill Crossroads and being told that there were bodies lying on the road ahead Mr Moley did not share that recollection. Mr Moley told the Inquest that he parked his car back from the minibus and there were no other vehicles between them. He said he alone left his car and checked the bodies, but all appeared to be dead. Mr Malone said that he also exited the car and stood behind the minibus. Mr Moley said he saw Mr McKeown coming from the Newry end and had said for him to come up quickly and they had said a prayer. Mr McKeown is the only person he recalled being at the scene. He was not aware of Mr Black when he left the scene within 10 minutes of his arrival, and he said that Mr McKeown was going to check the far side of the minibus. Mr Malone told the Inquest that the men called at The Manse to ask someone to phone police but did not receive an answer and they proceeded to Daisy Hill Hospital and asked staff to send ambulances. Mr Andrews, who was present at The Manse at the time of the attack and who later made his way to the scene, made no reference to anyone calling and neither was this mentioned by Mr Moley. Mr Malone said that there was nobody else around when they arrived.

[105] Trevor Cartmill made statements on 18 September 2013 and 17 February 2016, and he also gave evidence to the Inquest. In 1976 Mr Cartmill was a police constable stationed at Newtownhamilton Police Station but on the evening in question he was off duty and visiting his parents who lived three or four fields away from the scene of the attack. In his initial statement Mr Cartmill said that he was watching the news

when he heard automatic gunfire shots. He had gone outside and heard a second round of shots – an assertion running contrary to his later statement but which he confirmed when giving evidence to the Inquest. He left the house and drove to the scene, passing a neighbour, and arriving perhaps 10 or 11 minutes after hearing the shots. A statement from a neighbour recalls Mr Cartmill arriving at the Kingsmill Crossroads after she had already been asked to make a call to emergency services. He parked behind the minibus and observed bodies along its driver's side, back and passenger's side and he believed that everyone there was dead. Mr Cartmill initially thought those killed were members of the security services but then he saw that his uncle, Robert Freeburn, was among the dead. Throughout his evidence Mr Cartmill contended that he was alone at the scene until Mrs Magee arrived and told him that she had heard nothing. He recalled uniformed police officers arriving shortly afterwards, saying that three or four officers had travelled in the same vehicle and that Sergeant Bartholomew and Eddie Scott were among them. However, by 5 January 1976 Sergeant Bartholomew had been transferred to Newtownards and he told PONI that he had not been at the scene. His service records confirm his transfer. Mr Cartmill said that nobody else had been on the scene during his time there which, in his second statement, he put at 20 to 30 minutes. That is certainly not in keeping with the weight of evidence including that from the emergency services and witnesses such as John O'Hanlon observed him at the scene.

[106] Mr Cartmill, who was personally bereaved by the loss of his uncle in the attack, was undoubtedly one of the first people to arrive on the scene from the direction of Whitecross, however it is likely that by the time he got there others including Mr Moley and Mr Malone and Eugene Reavey, had been and gone. Mrs Magee's presence indicates that the alarm had already been raised on the Bessbrook side of the attack by the time of his arrival and evidence was heard from Mr Byrne and Mr Hughes concerning his arrival at the scene. It is very unfortunate that a contemporaneous statement was not taken from Mr Cartmill as appears to have been envisaged in Job 64 of the RUC actions sheets. However, the investigation file includes references to him being present and records that Mr Cartmill told police the names of three people he knew at the scene and who were there on his arrival: Gerald McKeown, Gerald Byrne and Charlie Hughes. At this remove Mr Cartmill does not recall speaking to Mr Hughes or Mr Byrne, although they say that he did so. He gave evidence that he did not recall speaking to police as part of the investigation.

### *Services at the scene*

[107] Sean Murphy and Michael Mallon were ambulance personnel employed by Southern Health and Social Services Board. Mr Murphy said they had been at Daisy Hill Hospital, Newry when they received the request to attend the scene at 5.50pm (although Mr Mallon put it at 5.30pm) and they arrived at 6pm. It was their ambulance that took Mr Black to Daisy Hill Hospital. Mr Murphy gave oral evidence at the Inquest and said theirs was the first ambulance on the scene and he

recalled there being 15 to 20 people there upon his arrival among whom he knew Mr McKeown. He said he had radioed for other ambulances.

[108] Joseph Stevenson, whose statement of 7 January 1976 was entered into evidence, said that he and his colleague John McConnell had been dispatched at 6pm. He recalled there being police at the scene and proceeding to place two bodies on stretchers but being told to wait. It is likely that these were the bodies of Robert Walker and Robert Freeburn according to the sketch drawn by Detective Sergeant Heasley. Mr Stevenson said his ambulance conveyed four of the deceased to Daisy Hill Hospital for 8.30pm.

[109] John Rodgers, whose statement of 7 January 1976 was entered into evidence, said that he and his colleague William Thompson received the call to attend the scene at 6pm and arrived at about 6.25pm. He recalled police and ambulance personnel being on the scene upon his arrival. He recalled that there were six bodies to the side of the minibus and four to the rear and other side which can be taken to mean the nearside. Mr Rodgers recalled removing three of the deceased men to Daisy Hill Hospital where the ambulance arrived at 8.30pm.

[110] James Bannon, whose statement of 7 January 1976 was entered into evidence, said that he and his colleague Eamon McArdle had been dispatched at 6.10pm and arrived at 6.30pm and that their ambulance had taken three of the deceased men to Daisy Hill Hospital at 8.30pm.

[111] In 1976 Edwin Scott, who made a statement to the Coroners Service for Northern Ireland on 8 June 2016, was a police constable stationed in Newtownhamilton. He gave evidence to the Inquest and recalled being alerted to the shooting, possibly by Newry police station, and he and other officers making an immediate and urgent response. He recalled that he alongside three or four other officers went to the scene in an unmarked police car from Newtownhamilton and approached from that side. Mr Scott recalled that upon their arrival Mr Black had already been taken to hospital, but he recalled other ambulances arriving. Trevor Cartmill was the only person Mr Scott recalled being present upon his arrival and he said there were no other vehicles. Entry 21 in the Serious Incident Log states that Vincent Lamph and John O'Hanlon were present on the arrival of police. He described Mr Cartmill as standing facing the bodies. Mr Scott said that he did duty points, sealed off the area and established a cordon on the Newtownhamilton side under instruction from Sergeant Bartholomew who he said had travelled with him to the scene although he could not be entirely sure it was him. Mr Scott did not speak to witnesses. He recalled more senior officers arriving from the Newry side of the scene. Although Mr Scott did not have the benefit of any written record of his arrival, correlation with the arrival and departure of ambulances, Mr Cartmill and other police colleagues would suggest that he and the other officers were present shortly after 6pm.

[112] Papers made available to the Inquest by PONI indicate that it is likely that other police officers arriving alongside Mr Scott in the immediate aftermath of the incident included Eddie Hunniford, Albert Carroll and Glynn Cutliffe. Although

Mr Scott and Mr Cartmill both refer to Sergeant Bartholomew being among those attending it is clear from police records that he was stationed in Newtownards at the relevant time. He was not present at the scene. Mr Hunniford (during a PONI meeting on 17 December 2016) recalled driving with Mr Carroll and Mr Cutcliffe to the scene from Newtownhamilton, Mr Cutcliffe taking registration numbers of the vehicles coming in the opposite direction during the journey, and said that they were present at the scene within 15 minutes of the attack occurring. He said he remained for 60 to 90 minutes, until the army had secured the scene for forensic examination. Mr Hunniford recalled that there were numerous people at the scene on his arrival. He also recalled a patrol coming from the other direction and it is possible that this was the arrival of the investigating officers. Mr Cutcliffe (during a PONI meeting on 13 December 2016) recalled arriving at Newtownhamilton and being told within 10 minutes about the attack. He recalled being at the scene for many hours. Mr Carroll (during a PONI meeting on 3 February 2017) recalled checking the scene for signs of life and guarding it until investigators arrived.

[113] Inspector James Mitchell was stationed in Newry Police Station at the time of the attack, posted to Criminal Investigations Division (CID). At 6pm he went with Detective Sergeant Heasley to the scene where he found eight bodies on the road, four at offside and four at rear and two being placed in an ambulance. He told the Inquest that there had been no more than six people on the scene upon his arrival, that uniformed police were there and Mr Black had already been taken to hospital. He immediately summoned all essential agencies including a scenes of crime officer (Constable Derek Smith), a police photographer (Sergeant Alan Blair), Forensic Science (Chief Inspector Hill and Gary Montgomery), a mapper (Constable Robert McCullagh) and a doctor to pronounce life extinct (Dr Ward). He had the position of the bodies sketched by Detective Sergeant Heasley. Inspector Mitchell took forward the investigation into the attack.

[114] MOD3, then a Captain serving with the Special Military Intelligence Unit, Northern Ireland, as a military intelligence officer for RUC Division H, said that at approximately 5.45pm on 5 January 1976 he had been in the Operations room at Bessbrook when a call came from the RUC to report the shooting. He said he believed the Royal Scots immediately dispatched a patrol in a Wessex helicopter to locate the scene and secure the ground but that the situation was unclear, communication between the RUC and Army was not very effective and, becoming frustrated with the lack of information, at 6.15pm he drove to the scene where he arrived at around 6.30pm. He spoke to Inspector Mitchell and from a survey of the empty cartridges came to the view that the attack had been the work of the Provisional Irish Republican Army (hereafter the IRA). He said Inspector Mitchell appeared satisfied with the security of the scene. MOD3 did not recall other military being present upon his arrival at the scene, nor did he recall ambulances although the weight of contemporaneous evidence confirmed they are likely to have been at the scene when he was there.

[115] At the time of the attack MOD2 was a Captain and Operations Officer with the 1<sup>st</sup> Battalion Royal Scots. His evidence was assisted by use of his

contemporaneous personal diary. He told the Inquest that he first heard of the attack through Constable Charles Hamilton who reported the phone call having been received by the RUC from the Magee house. He said that at 5.42pm there had been reports via the RUC of explosions and gunfire not far from Bessbrook. He also recalled other inaccurate reports being received. His evidence suggested there being general confusion concerning what had happened.

[116] MOD2 said that after a period of searching by the RUC and the airborne Quick Reaction Force, the location was found to be near Kingsmills and recounted that at 6.04pm the army helicopter was informed of a grid reference for Kingsmill Crossroads. At the same time Newtownhamilton troops were tasked to the area and he assumed this would be by helicopter. He said that all Battalions in Northern Ireland had a Quick Reaction Force which was normally vehicle mounted but in South Armagh it was called an Airborne Reaction Force and based in Bessbrook. An immediate reaction to any incident was to get a helicopter with an Airborne Reaction Force airborne. At 6.15pm it was confirmed that the police were in the area and that 10 Protestants were dead but MOD2 did not think the army were present at this time. MOD2 said it took about an hour to get Army patrols to the incident, mainly because of inaccurate information from local people which took the patrols to the wrong place initially. The Inquest does not consider that this was deliberate misinformation but rather that it reflects the confusion of the situation. MOD2's evidence was that at 6.36pm call sign Romeo 2 2 Echo, which was a helicopter, went to Robb's Bar and picked up MOD1, Major Ron Brotherton, who went to the scene and dispatched patrols by vehicle. At 6.37pm 52 E Call Sign recorded the first mention that the Army were at the scene and MOD2 said that this was one of Major Ron Brotherton's patrols. Major Brotherton's role is dealt with in more detail later in these findings. His patrol mounted a secure cordon at the scene.

[117] Dr PJ Ward attended the scene at approximately 7pm at the request of police. He certified life extinct in all 10 men at the scene. He also carried out superficial examinations at Daisy Hill Hospital to confirm that each death was due to gunshot wounds of recent origin.

[118] Constable Derek Smith, stationed at Newry and attached to the Scenes of Crime Branch, arrived on the scene at 7.15pm. Later he was joined by Mr Gary Montgomery of Forensic Science. Mr Montgomery's statement records him leaving Newry RUC Station for the scene at 8.30pm, although in his notes he says 8.45pm. The bodies of the deceased men had been removed by the time he arrived. Mr Smith marked the vehicle position on the road, and it was removed to Bessbrook RUC Station. In his evidence to the Inquest he described the night saying it was very wet and windy. He described the weather as horrendous and said it was pitch dark. He recalled that on his arrival the scene was sealed off but there were quite a number of people outside the cordon. He was asked about Mr Montgomery's written note which stated that the scene was "swarming with police, army and press. Preservation of scene was non-existent." He remarked that he would not have said it was swarming. He agreed with Mr Montgomery's note to the effect that the spent cases had been gathered before the arrival of the forensic team, saying that the spent



cases had been lifted and placed at the side of the road in a couple of groups. Mr Smith said that he did not know who had lifted the cases and that had been done before he arrived on the scene.

[119] Regarding preservation of the scene, the Inquest investigated the allegation by those close to the Inquest that journalists including Paul Clarke had been able to approach the scene without hindrance. The observation was supported by notes taken from Gary Montgomery suggesting that the scene was unmanaged on his arrival which would have been shortly after 8.30pm. The correctness of that assertion was tested by the evidence of Mr Clarke who told the Inquest that he had set off from Belfast perhaps 45 minutes after initial report of the atrocity and then had arrived at around 8pm. Contrary to the chaotic scene suggested by some he described being taken to an assembly point, then transported to the scene by the Army. The Inquest is left in no doubt that journalists were appropriately supervised but it is clear that there were many people at the scene before forensic examination took place including members of the public and emergency services. It is also apparent that bullet cases had been collected and placed in piles before forensic examination.

### **Kingsmill - the Mitchell Investigation**

[120] The Kingsmill investigation was led by then Inspector James Mitchell, an officer with 10 years' experience as a detective in the RUC. Mr Mitchell told the Inquest that he was made Detective Chief Inspector by end of 1976 and retired as Detective Chief Superintendent in 1989. The Inquest is grateful for the assistance given to it by this experienced former officer who answered questions in a frank and open manner.

[121] In January 1976 Mr Mitchell headed up the RUC's H Division which took in South Armagh and South Down. He attended the scene of the attack on the evening of 5 January 1976 and gave appropriate and timely directions concerning mapping, photography, forensic science, pathology and scenes of crime. Mr Mitchell established a major incident room in Newry Police Station and daily conferences would have been held at 9am and 5pm.

[122] H Division consisted of an inspector, four sergeants and either 11 or 12 constables. Records suggest that eight investigators from H Division worked on Kingsmill and Mr Mitchell told the Inquest that normal criminal investigation work had to continue alongside the investigation. Mr Mitchell drew attention to the other acts of terrorism under investigation, sometimes resulting in criminal proceedings, in and around the same time. These included the murder of four soldiers by a landmine in Forkhill on 17 July 1975, the murder of three members of The Miami Showband on 31 July 1975, the murder of five men at Tullyvallen Orange Hall on 1 September 1975 and the murderous attack on the Reavey family the evening before Kingsmill. In his final report of 31 December 1976 Mr Mitchell raised the issue of workload saying: "I regret the delay in finalising this enquiry but a large number of

other investigations, where persons were awaiting trial, were pending and I feel they took precedence over this particular case.”

[123] For the purpose of the Kingsmill investigation, H Division was assisted by two teams from the recently formed Regional Crime Squad based at Belfast’s RUC Headquarters. Detective Constable John Dale, a member of the Squad who worked on the Kingsmill investigation, explained that teams would be sent round Northern Ireland as murders occurred. On 5 January 1976 he had been working on an investigation in Larne when he was told to attend Bessbrook RUC Station the next morning. He told the Inquest that a team was a Sergeant and four constables, but Mr Mitchell recalled the additional support consisting of nine detectives. A snapshot of the investigative team is provided at entry 62 of the Serious Incident Log which lists 12 investigators assigned to the inquiry: one inspector, three sergeants and eight constables.

[124] Mr Mitchell told the Inquest that the Belfast based detectives brought both added expertise and manpower, but he observed that he would not have had consistent access to the same personnel because members of the Squad would be taken back by Headquarters for other deployments. This observation was supported by a Detective Constable McClenaghan who told PONI during a discussion on 19 September 2016 that he assisted for four or five days doing house to house enquiries before being moved on to other investigations.

[125] Moreover, Mr Mitchell had concerns about the welfare of the visiting Squad, telling the Inquest that detectives coming from Belfast had no idea of the geography of South Armagh, which was an additional problem for him because he had a duty of care to ensure that nothing happened to them and that they did not wander into the wrong area. The Squad was in demand elsewhere and its involvement was brief. One team finished on 21 January 1976 and all of the additional support had left by 27 January 1976.

[126] Mr Mitchell’s frustration concerning resourcing was palpable. He said that South Armagh presented an abnormal situation, and the manpower was inadequate. Mr Mitchell told the Inquest that he had asked for additional resources, but this was declined. Uniformed constables were not available to the investigation, and he described his situation as trying to contain a litre in a pint jug. He went on to tell the Inquest: “One of the biggest problems was the lack of manpower. I had a massive investigation which, in modern parlance, would be probably dealt with by a superintendent, chief inspector, two inspectors and probably 48-50 detectives working on it. But the most I had 12 detectives working on the case, two sergeants and myself, and that they had to deal with a catalogue of other crimes that were happening and had happened before this. There was something like, I think, 29 murders in a very short period of time in our particular division, and the biggest problem that I had was getting sufficient manpower to carry out all the investigations.”

[127] An observation made by several family members of the deceased was the absence of communication by the police with those who were bereaved. Mr Mitchell

acknowledged that the atrocity occurred before the police would have had family liaison officers to guide, protect and advise the bereaved. The absence of effective liaison led to distress for relatives and may also have helped foster an atmosphere in which rumour and speculation spread concerning the attack and its investigation.

[128] The Kingsmill investigation was short by modern standards. The Inquest noted that the last entry in the Serious Incident Log is dated 14 January 1976 and last action sheet is dated 23 January 1976. Mr Mitchell authored a Preliminary Report on 27 January 1976, but he told the Inquest that he did not consider that to be the closing down of the investigation but rather that it was probably something sought by Headquarters. On 18 February 1976 the Coroner was informed by the RUC that he could proceed to Inquest, a decision authorised on 9 February 1976 and indicated as early as 30 January 1976. Mr Mitchell's Final Report is dated 31 December 1976. The tenor of the Final Report suggests that work had effectively been completed with Mr Mitchell stating: "Enquiries into these crimes are now exhausted." While the Superintendent's response of 7 January 1977 stated that "enquiries still continue" the investigation was effectively over by the end of 1976. Mr Mitchell told the Inquest that the case could have been reopened at any time when new information came along. Arrests were planned in January 1977 but did not come about. There is evidence on papers before the Inquest that when suspects would later come to police attention for unrelated activities, reference would routinely be made to their suspected involvement in the Kingsmill atrocity.

### *Questions concerning the completeness of the investigation papers*

[129] The Inquest was confined to examining materials remaining many decades after the atrocity. It is notable that the RUC's Serious Incident Log starts at page 3 and ends at Log Number 89 although there are references elsewhere to entries up to 110. The complete file was not available to the Inquest, and it must be considered lost. Mr Mitchell explained that the documentation is likely to have been moved to different stations on three or four occasions over the years. Some information may have been lost due to asbestos contamination at Gough Barracks. While the fact of missing material has the potential to give rise to suspicion the Inquest does not find it at all surprising given the chaos of the times and the age of the material. Moreover, the material was generated long before computerisation and gaps in the retention of material cannot be judged against modern standards. Indeed, Mr Mitchell made the observation to the Inquest that omissions would be much easier to identify under computerisation than in 1976 when everything was noted manually by a collator. In forming the view that there is nothing sinister in the absence of paperwork the Inquest remains mindful of the evidence of Stephen Morris, Senior Investigating Officer for the HET, who said that missing documentation was common in cases that had been reviewed. The HET did not put a suspicious or sinister connotation on the absence of material.

### *Advance intelligence*

[130] The Inquest can confirm that there was no intelligence material that forewarned of or could have prevented the attack. Neither did police consider there to be a threat to workplace vans. Charles Hamilton told the Inquest that he would never have considered the workers' minibus a target because they were all innocent men coming from their work. It was their religion alone that led to the deaths of these men.

### *Threat to workers at John Compton Ltd*

[131] In the course of the evidence the Inquest heard that at 2.15pm on Wednesday 31 December 1975 there was contact made to the police at Markethill about a threatening telephone call which was received at John Compton Limited. At 11.15am on 31 December 1975 an unknown male person telephoned the factory switchboard and asked to speak to X. The call was put through to the workshop where he worked. X took some time to come to the call and another worker lifted the phone to apologise. The caller replied that X should be told he was "third on the list alongside Y" and rang off. X and Y were informed of the call and its contents. Police attended the factory at 3.30pm on 31 December 1975 and spoke to the two men. X was a 53 year old machine operator from Newtownhamilton. Y was a 50 year old driver from Loughgilly. X told police that he would change his routine. Patrols were to give attention to both men's houses.

[132] A number of those close to the Inquest questioned why this information had not been shared generally among workers at the Mill. The threat was, of course, made against two specific individuals. It was not a generalised threat against workers at the factory. Police sought to draw specific community links to the men that formed a rationale for the threats. One of the men named was based in Newtownhamilton and the other in Loughgilly. Neither of the men under threat used the minibus that came under attack nor even travelled in the direction that it took. The Inquest understands that between Glenanne Mill and its sister business, Callan Valley Mills, there were 280 employees. It is unsurprising that the specific information remained private to those concerned, particularly as the suggestion of a threat to a particular individual might have served to identify that person more widely as a potential target for terrorist attack. In the turbulent climate of South Armagh in 1976 it would have been important for these matters to have been handled with discretion. Had general notice been given that a threat had been made against two employees it is difficult to know what other workers would have made of it or what changes it could realistically have provoked.

[133] Mr Mitchell told the Inquest that he could not recall the call being factored into his investigation and while he accepted it was relevant, he did not consider it likely it was connected to the attack. He took the view that the IRA was unlikely to forewarn of an attack. That explanation does not, of course, give recognition to the possibility that the anonymous caller wanted to warn X and Y of the threat in order to assist them rather than terrorise them.

[134] Given the timing of the threat and the fact it was against two employees of Glenanne Mill it is surprising that it was left unconsidered by the Kingsmill investigation. It goes unmentioned in the Serious Incident Log suggesting that it was not brought to the attention of the investigation by others who knew of it although the information is likely to have been shared with police at Newtownhamilton and Bessbrook. In and of itself that might suggest that it was not then seen as a particularly relevant link to the attack on 5 January 1976. It ought to have been considered by police and its absence represents a lacuna in the investigation.

### *Investigative steps in the immediate aftermath*

[135] In reviewing the investigative landscape the Inquest is mindful that police arriving at the scene had little information upon which to proceed. The perpetrators had long since made their escape without trace. Those who had survived the attack were unable to identify the terrorists involved nor how they had made their escape. Forensic and pathology evidence were helpful in establishing what had happened and organisational attribution of responsibility but did not assist with individual attribution. The findings concerning the significance of the palm print found on the H&P Campbell van are dealt with elsewhere in these findings.

[136] Police took a number of steps to gather information from members of the public. Vehicle checks were carried out on 6 January 1976. The purpose of such checks was to establish if anyone routinely on the road had seen anything unusual. The Inquest did not have detail as to the precise time or location of the checks but a total of 26 motorists were stopped. A proposal to continue with the checks on 7 January 1976 came to nothing as insufficient uniformed officers were available to provide cover. Appeals for information were made in the press, television and radio.

[137] House to house inquiries were mounted on 7 January 1976. Some 24 homes were visited. A proposal to continue the next day was cancelled because a number of funerals were taking place, and the house checks did not resume. Detective Constable John Dale, part of the Regional Crime Squad, gave evidence of the conduct of these enquiries. He said the RUC did not employ a proforma but asked occupants if they had seen or heard anything. He said that no worthwhile information had been collected and that nobody spoke to police because of fear. In Mr Mitchell's final report of 31 December 1976 he remarked that during house to house and other police enquiries maximum cooperation was forthcoming from the local public. There is, however, nothing before the Inquest to suggest that anything of evidential significance was gleaned from the exercise. It is notable that a particularly important group of potential witnesses were not successfully approached through this mechanism. While police recognised the value in talking to the Magees, as established in Job 37, no statements were ever taken from the family concerning the deaths. Mr Mitchell told the Inquest that the family had not been in during house to house inquiries. Ultimately a conversation did take place with Mr Magee on 12 January 1976 regarding a fire on his land shortly after the attack.

This matter, reflected in Serious Incident Log entry 57 and job 43, concluded after Mr Magee said he had taken bloodstained oil cloth from the Reavey home and his sons had burnt it. A RUC officer was shown the remains of the fire and found pieces of oil cloth still lying on the grass and accordingly a reasonable and innocent explanation was given in answer to the query. Statements ought to have been taken from the Magee family concerning their recollections concerning 5 January 1976 and also concerning the oil cloth fire.

### *Intelligence and information concerning individual responsibility in the immediate aftermath*

[138] The Inquest records some caution concerning the intelligence and other information naming suspects. Not everyone mentioned was known to police who often only had a name with no further details. At times the papers reveal confusion as to who is the subject of the information, their status, family relationships and whereabouts. So many decades on those uncertainties are incapable of being remedied.

[139] It is impossible at this remove to state with confidence what Special Branch or Military information was held by those taking forward the criminal investigation, but some reliance must be placed on those named in the Serious Incident Log and accompanying Action Sheets. It was only those individuals that came under the auspices of the investigation. By way of example, a review of the Special Branch intelligence documentation reveals reports suggesting the involvement of s91, s114 and s103 in the attack and in stealing a black Transit van from Castleblaney on 4 January 1976. By 7 January 1976 the Chief Superintendent, Special Branch had sent the Chief Constable a very detailed document concerning s114's antecedents. This letter included reference to s114 being Officer Commanding the IRA in North Louth, citing intelligence that in November 1975 the unit had been stood down due to its behaviour and that members had joined the 2<sup>nd</sup> Battalion Crossmaglen Unit. A letter from Superintendent Special Branch Belfast to Detective Inspector Lurgan on 20 January 1976 implicated s103. A further intelligence document of January 1976 stated that after carrying out the attack s114 and s91 had crossed the border into Monaghan and then returned to Crossmaglen. In an intelligence document dated 11 January 1976 it was reported that s114 had presented himself to AGS at Dundalk and denied being involved in the murders and offered to answer questions on this crime alone. An intercepted prison letter reported on 14 January 1976 suggested s114 had not taken kindly to being implicated and one report stated that at the time of the attack he had been left by his wife and was at home with his children. A member of the public phoned police on 13 January 1976 to say it was "well known in South Armagh, that s114 ... was one of 12 murderers who ambushed the Glenanne minibus at Kingsmills." While s91 and s114 are under suspicion by investigating officers early in the investigation it is notable that s103 is not mentioned in the Serious Incident Log or Action Sheets.

[140] Others named in Special Branch materials shortly after the deaths were included in the investigative papers. S125 was also mentioned in intelligence dated

9 January 1976 and he was noted in the Serious Incident Log of 11 January 1976 suggesting the information had been passed on. That same day there is Special Branch reference to s123 and s126. S126 is noted in the Serious Incident Log on 11 January 1976. S123 is noted in the Serious Incident Log on 14 January 1976. The Inquest recognises that both Special Branch and CID were based in Newry. There is likely to have been both formal and informal exchanges between the different offices. Mr Mitchell told the Inquest, for example, that he would have contributed to the discussion with Special Branch as to the suspects to be named in the RUC Gazette on 13 February 1976. A letter of 20 January 1976 from RUC Headquarters, sent on behalf of the Chief Constable to DCI Special Branch in Newry, named several suspects. The letter asked for the information to be passed to the Kingsmill investigation and Mr Mitchell said the names would have been shared with him.

[141] The Inquest also notes that a number of individuals identified as suspects by the Army did not form part of the police investigation as revealed in the Serious Incident Log and associated Action Sheets. S59, s46, s78 and s64 were all said to have been initially identified by 3BDE - thought to be the 3rd Infantry Brigade - as among those most likely to have been involved. While s46, s78 and s64 did not form part of the police investigation on the basis of papers before the Inquest, s59's palm prints were compared with that found on the H&P Campbell van, so he was clearly under police consideration while not specifically mentioned in the Serious Incident Log or Action Sheets. S64 was also named as involved in Army intelligence of 10 February 1976. S46 and s41 are both named as culpable in Army intelligence from 17 May 1976 which also names several other men already under scrutiny by police. Again, while s41 is not specifically noted in investigative papers, his palm prints were examined by police investigating the H&P Campbell van. S46 is said to have boasted, alongside another suspect, either s78 or s74, of having taken part in the massacre. S74 was known to Special Branch having been mentioned in intelligence dated 9 January 1976 but he is not named in the investigative papers other than in a handwritten pen picture and neither is s78. On 21 May 1976 Army intelligence implicates s77 and again he does not form part of the police investigative papers. The Inquest acknowledges that not all investigative papers were available to the hearing. The last entry in the Serious Incident Log is dated 14 January 1976 and last action sheet is dated 23 January 1976.

[142] A much expanded picture of initial suspects appears from the Serious Incident Log. On 6 January 1976 the log mentions suspects s57, s110, s17, s38, s67, s104, s91, s16 and s15. On 7 January 1976 the log mentions suspects s120, s121, s111, s114, s89 and s39. On 8 January 1976 the log mentions s71, s119, s92 and s32. S119, s91, s92 and s32 had all been reported to police via a confidential telephone call on 6 January 1976 and s57 and s110 had been the subjects of another call. On 11 January 1976 the log mentions s125, s126 and s99, s99 having been the subject of a confidential telephone call on 9 January 1976. On 12 January 1976 the log mentions s124, s94 and s66. On 13 January s28 is mentioned. On 13 January, in the Action Sheets, s51 is mentioned. On that same date is the first reference to s45, with an action being recorded to find out Special Branch information on the suspect. No action appears to have been taken. On 14 January 1976, the final log entry records

reference to s76, s72, s123, s8, s50, s89, s88, s96, s25, s52, s53, s61, s47, s27, s28, s54, s55, s56, s7, s2, s3 and s4 and it is likely that this reflects Ulster Defence Regiment (hereafter UDR) intelligence about known IRA terrorists that came via Special Branch. S52 had previously been mentioned in a confidential telephone call on 9 January 1976 by a man who had made many calls before. S30 is mentioned in the Action Sheets for 15 January 1976. He was to be arrested and interviewed but that did not take place. Also on 15 January 1976 the Action Sheets mention s26 and it appears his status was checked with Special Branch with a nil return.

[143] On 13 February 1976 an RUC Gazette sought information concerning s114, s32, s45, s97, s58, s8 and s91. The men were said to be wanted for interview. There was no clear answer as to why those sought were included in the list or why individuals already named had been excluded or why others were added but Mr Mitchell told the Inquest that he had an input into formulating the list alongside Special Branch. Stephen Morris, senior investigating officer for the HET investigation, was unable to explain how the seven individuals named had been chosen but he did not draw any negative inferences concerning their selection. Correspondence between the RUC and AGS indicated that s58 was living in Dundalk by November 1976.

[144] A potentially significant intelligence breakthrough occurred in December 1976 when a person known to be a member of the IRA, and who admitted his own membership, told police that the following individuals had carried out the attack: s91, s45, s32, s33, s42, s106, s104, s92, s54, s7 and s37. He told police that s91 had been in charge of Kingsmill. The information had been analysed to identify the whereabouts of the individuals. This intelligence represents the second mention of s54 who would later be associated with the H&P Campbell van by his palm print. He was first mentioned in the police serious incident log on 14 January 1976. The source additionally told police that s37 was a "big man" in Dundalk and that he spoke with an English accent. Intelligence received by police in December 1976 and January 1977 also named s132 as being English. He was implicated by intelligence dated 17 January 1977. Mr Mitchell told the Inquest that he did not recall being in possession of the December 1976 information and in his final report dated 31 December 1976, after police receipt of the informant's information, he only identifies s91, s32 and Peter Cleary as suspects. Mr Mitchell told the Inquest that the list of 11 individuals named in December 1976 should have led to renewed vigour for the investigation but observed that the fact that most of those on the list were domiciled in the Republic of Ireland would have presented a major obstacle to following up. The Inquest notes that many of the suspects were already thought to be in prison upon receipt of the information: s91, s32, s106, s54 and s7. The information was not in Mr Mitchell's final report of 31 December 1976 but there was evidence of it being in the hands of the Regional Crime Squad in 1977.

[145] This brief synopsis demonstrates the inherent weakness of intelligence material with individuals appearing and disappearing depending on the source. The December 1976 intelligence, while of value, must be seen in its proper context. It is information provided by a known IRA terrorist and its truthfulness will always be



questionable simply on that basis. That terrorist may have had an interest in distancing himself or others from the attack. He may have had a selfish interest in implicating others. None of the intelligence material gathered by police concerning individual culpability was capable of being converted into evidence that could have been presented in front of a court. Repetition of intelligence, no matter how often, does not elevate it to evidence. On occasion it was suggested that the identities of the perpetrators were known and that names had been communicated to some close to the Inquest but that there was no evidence to bring criminal proceedings. The fact is that a very large group of individuals was suspected by police, far in excess of those actually involved, and many because they were "usual suspects" but there was no evidence gathered against any individual.

### *Arrests*

[146] A frustration expressed by those close to the Inquest was that those suspected of involvement in the deaths had not been arrested and questioned. Mr Mitchell told the Inquest that the arrest strategy would mainly depend on intelligence and information coming in and that arrests would be discussed with Special Branch. He said that he was privy to Special Branch information regarding terrorists. Arrests would then be carried out with the support of the army. He candidly told the Inquest that arrests took place because people were known IRA terrorists – effectively the usual suspects. The clear downside to a strategy of bringing in those known to be involved in terrorism was helpfully explained by Chief Inspector Samuel Mack who conducted a review of the investigation in 1986. He told the Inquest:

“... members of illegal organisations, including the Provisional IRA, when arrested, were trained to avoid any speech or eye contact with the interviewer and to remain silent throughout the entire interview. Arrests and interviewing suspects without firm evidence was not the done thing. All it did was to educate the interviewee as to the knowledge that the police had at that time.”

[147] In the absence of any evidence concerning individual attribution it is likely that arrests would have been focussed solely on obtaining confessions. The Chief Superintendent who responded to Mr Mitchell's final report noted on 12 January 1977: "Whilst no one has actually been charged with the crime, a good deal is known about the identity of those responsible. The trouble is that it would take admissions to get them to court and previous experiences would not raise many hopes in that regard." This limitation was also explicitly recognised in the 1986 review of the investigation in correspondence from Detective Superintendent Neilly to Detective Inspector Mack on 30 May 1986. Mr Mack told the Inquest that his reading of the case file led him to believe that there was no concrete evidence to raise sufficient grounds to obtain warrants or to commence extradition proceedings in respect of any of the suspects named by Mr Mitchell or otherwise. Mr Mack could not remember if s54 – subsequently connected to the H&P Campbell van by his palm

print - had formed part of his review but he said that he did not recall anything whatsoever relating to evidence being available to arrest anyone for questioning.

[148] Many decades have now passed since the atrocity and no recognised organisation much less any individual has admitted responsibility for it. The optimistic notion that admissions could spring from arrests without evidence has been tested by time. Neither the organisation nor the individuals responsible for this atrocity have any intention of explaining it, much less being held to account. They are uninterested in transparency concerning their actions.

[149] The Inquest considered evidence concerning arrests. In his statement of 26 December 1976 Mr Mitchell referred to a number of known terrorists having been interviewed but said that insufficient evidence had been elicited to bring charges.

[150] S90 and s95 were both arrested in the early morning of 6 January 1976, taken to Bessbrook Army Barracks and then Newry Police Station. It is likely that s91 was circulated in a RUC Gazette, an internal publication describing wanted persons, on 9 January 1976 as it is mentioned at entries 68 and 77 of the Serious Incident Log, although no copy is available. In any event, s91 was arrested by AGS in Dundalk three days after Kingsmill under section 30 of the Offences Against The State Act 1939 and questioned about the hijacking and the atrocity but he denied any involvement. It is likely that this arrest was based on information shared by the RUC with AGS on 6 January 1976 concerning s91's purported role in hijacking the H&P Campbell vehicle. He was arrested for a second time by AGS concerning Kingsmill on 14 January 1976. S45 was also arrested by AGS concerning Kingsmill on 14 January 1976. AGS was unable to explain the grounds relied upon for the arrests of 14 January 1976. Chief Superintendent Nyland told the Inquest that there is no record of any suspects being arrested by AGS concerning Kingsmill other than s91 and s45.

[151] MOD2 said he assisted in the arrests of s94, s124, s65, s10 on 10 January 1976 and Inquest papers recorded that the men were taken to Bessbrook RUC station for questioning. By the time the HET investigated the matter none of these four were even included in its list of suspects. The first two arrests were recorded in the Serious Incident Log at entry 80 on 11 January 1976. MOD2 recalled also having been involved in four arrests on 6 January 1976 and another on 7 January 1976. Mr Mitchell's evidence was that s124, s94, s10 and s65 (as above) had been arrested on 12 January 1976 but it is likely that these happened earlier. He also referred to the arrests of s35, s34 - recorded as having been arrested by the military on the morning of 6 January 1976 and an interview with s34 is on file. He also referred to the arrests of s79 and s44 both of which occurred on 6 January 1976. S137 was arrested on 6 January 1976.

[152] There had been a plan to arrest s30 on 15 January 1976, as outlined in Job 57, but no action was recorded against it and the rationale behind the plan remains unknown as Log 92 is missing. He was not considered a person of interest by the HET inquiry. The Serious Incident Log records at entry 88 that UDR intelligence via Special Branch implicated s76 and s72. At Job 54 there is a note saying that Special

Branch did not recommend that either man was “lifted” at present. Mr Mitchell said this could happen when Special Branch were trying to build an intelligence picture. Detective Constable John Dale gave evidence that he had, in fact, interviewed s76 on 18 January 1976. On 15 January 1976, in Job 62, s26 is mentioned as having acted suspiciously around the same time as the attack but no action is recorded other than Special Branch confirming he was unknown. It is unclear how s26 comes to be of interest as Log 95 is unavailable but a confidential telephone call to police on 14 January 1976 stating he had been seen acting in suspicious circumstances may have prompted it. Intelligence was received on 1 February 1976 stating that on 5 January 1976 s26 was diverting traffic at Priestbush/Greyhillan, Whitecross alongside three other unmasked men, the others unidentified. An additional Headquarters NI Republican Intelligence Report of the same date repeated the information. Mr Mitchell said he had never seen either document. The Headquarters document went on to say s26 was arrested on 7 February 1976 as someone sourced as being seen in the area before the massacre. No records exist of the arrest and Mr Mitchell said he was unaware of it.

[153] Mr Mitchell said that arrests were made on the basis of suspected links to the IRA rather than specific information on Kingsmill. All arrested were released without charge. Detective Constable John Dale, who interviewed suspects including s124 and s94 said that no suspect spoke other than to give their name and address which was typical of the IRA.

### *Factory employees*

[154] The Kingsmill atrocity could not have taken place without some knowledge concerning the route of the minibus and its occupants. The terrorists clearly knew the timetable and route of the vehicle and they also knew that an occupant, Mr Hughes, was a Catholic. The Serious Incident Log recognised at entry 42 the importance of establishing who was absent from work on the 5 January 1976 but the results are not always comprehensive.

[155] S17 was said to have usually travelled on the minibus but did not do so on 5 January 1976. At Job 20 action was to be taken to interview and take a statement from S17. The resulting entry, written by Mr Mitchell, states that s17 “Is frightened to go back to work” but there is no further information as to him being interviewed or to identify the reason for his fear. S17 was stopped at a UDR patrol at 2310 on 6 January 1976 and was said to be very nervous and ready to flee. The message to police was that he should be interviewed but the police refused to go that night saying they would attend as soon as possible. For the purpose of the Inquest police spoke again to s17 who said that he was absent that day due to the Reavey murders. He added that he had worked at the Mill for 30 years before the atrocity, had wanted to get a job elsewhere and had no further information to assist the Inquest. While there is no evidence against s17 the Inquest considers that the original police investigation ought to have done more to dispel suspicion surrounding him. S38 was also said to usually travel on the minibus but did not do so on 5 January 1976 and Job 21 was to interview and take a statement from him. While the result records

that a statement was taken it is not apparent on the papers and again more ought to have been done to dispel suspicion.

[156] The RUC also spoke to s67 who told police that he had not travelled on the minibus for some time and was absent from work on the day of the murder. There is a suggestion in a pen picture of s67 that he was at the scene shortly after the attack but that he did not hear any shooting and also that he was helping to collect the bodies of the Reavey brothers from Newry that evening. Again, there is insufficient contemporaneous inquiry to properly dispel suspicion.

[157] The most glaring omission concerns s104. This man, who was known of by Mr Mitchell, was said to have usually travelled on the minibus but was not present on the day in question. The Serious Incident Log indicates his absence at entry 42 and action 23 was for him to be interviewed and a statement obtained but no result is noted. The Inquest is satisfied that s104 is the same person as s109 and an expanded action sheet 23 records, in Mr Mitchell's writing, that he told police he was not present at work because he was at Reavey funeral and that he was not going back to work in the factory. In December 1976 s104 was named by an IRA source as being responsible for the Kingsmill attack but despite that he was never arrested and never interviewed by police concerning the atrocity. The alleged link between s104, his absence from the minibus and his naming by an IRA source, was not acknowledged in Mr Mitchell's final report of 31 December 1976. While there is no evidence against s104, his absence from the minibus ought to have been carefully explored in light of the information arising in December 1976.

### *Intelligence issues and other investigative matters*

[158] Mr Mitchell was asked about the follow up to intelligence that came to police attention in the wake of the attack. On 7 January 1976 entry 54 in the Serious Incident Log stated that information had been received from the UDR, Armagh, that the van used by the terrorists "... was seen at a house ... belonging to a man named s89 who is well known to UDR. S89 was also seen talking to s114 about two weeks ago." Although allocated Job 35, no follow up is apparent from the papers. Mr Mitchell, who acknowledged that these men were thought to be in the IRA and that the information ought to have been pursued, was unable to say if it had been investigated. DCI Harrison spoke to s89 in 2018 and he gave an account that did not advance the investigation. On 7 January 1976 information was received by police concerning cars that had been seen outside a local house, reflected at entries 58 and 59 of the Serious Incident Log. These were met with inquiries of the householder who accounted for the vehicles. On 9 January 1976, a related entry 73 in the Serious Incident Log records a conversation overheard by the UDR to the effect that the blue minibus belonging to H&P Campbell was seen outside a local property at about 5.15pm on the evening of the shooting. No job number was allocated. Mr Mitchell said the H&P Campbell van was green in colour, so he did not consider the information to be of particular use. An accompanying entry suggests that the householder had been spoken to regarding the matter and that he appeared genuine.

The reference to the colour of the van was twice cited as meaningful by Mr Mitchell. The Inquest is not convinced that the colour of the van in the report ought to have dictated the approach taken by police particularly as there is significant ambiguity in the papers as to its colour. The original AGS report of the hijack of the H&P Campbell van on 5 January 1976 described it as blue and that information was also passed to the Army. It is still being described as blue in job 16 which records that it had been examined for prints by RUC officers in Dublin on 8 January 1976. The van is described as green by Thomas Caldwell, a witness who saw it in Newry after its hijack and who gave a statement on 14 January 1976. Kevin Lamph, who saw the vehicle on the Newry Road shortly after the attack, described it as dark green in colour in his statement to police on 6 January 1976. When samples from the van were submitted for forensic examination it was described as green.

[159] The Serious Incident Log records at entry 71 a call being received on 9 January 1976 from a young female who stated there had been a large number of men in the yard behind Levelle's shop at the Tullydonnell border, Silverbridge on Monday 5 January 1976 between noon and 2pm. The caller thought the men were planning the attack. She told police that there had been a blue van, a red Mini and a Water Board van in the yard and that the blue van was still there at the time of report. Two job numbers, 29 and 50, were allocated, the former wrongly citing log 67 and asking for a check to see if the vehicles were still there, the latter seeking Special Branch information on s45, but no result was recorded to either job. S45 was arrested by AGS in connection with Kingsmill on 14 January 1976 but no information remains as to why this occurred. Mr Mitchell said in evidence: "it's very unlikely that the PIRA, professional as they are, would be meeting on open ground to plan a meeting. It is also very unlikely that the blue van would have been there for I think almost a week ... My experience in South Armagh is that as soon as a vehicle or particularly one that is going to be used imminently in a crime is immediately put under cover, it's put into a hay shed, it's put into an outbuilding and I would be very surprised if they left a stolen vehicle exposed to that extent, particularly if aerial surveillance which was ongoing on a daily basis in South Armagh." Mr Mitchell also pointed out the logistical difficulty in visiting an area like Silverbridge and said "... the relevance ... that would have been earlier attached to that blue van when it was discovered that the actual vehicle was green wouldn't have been given the same prominence as if it had been a green van." He continued that "Had the van ... fitted the description of the hijacked vehicle, obviously more importance and more urgency would have been attached to it but because the van was a different colour. It was sitting outside a grocer's shop which I'm sure there are lots of people frequenting the back yard for various reasons, it wasn't given the prominence ..." Mr Mitchell also reminded the Inquest that the H&P Campbell van was only stolen at 3.15pm on 5 January 1976 and had been recovered on 6 January 1976 so this report could not refer to that van. With the benefit of hindsight, particularly given s54's purported associations around the locale, this is a report that ought to have been probed in more detail.

[160] Focus appears to have been trained on the H&P Campbell minibus which is understandable given the methodology of its hijacking and the background of the suspected hijacker. Intelligence was received in January 1976 stating that the van used by the attackers was a Black Transit Van which was stolen from outside the chapel at Castleblaney, County Monaghan on Sunday the night of 4 January 1976. Entry 83 in Serious Incident Log on 12 January 1976 stated that on 5 January 1976 a Blue Transit Van reg 8851 IK was stolen at Castleblaney, County Monaghan and that its owner did not report the theft until 7.35pm. The vehicle was found burnt out in Ballsmill near Crossmaglen, some 13 miles from the scene of the attack according to maps, on 13 January 1976. A note on the log stated the vehicle had been eliminated. Mr Mitchell told the Inquest that it was eliminated as it was stolen after the attack, but the note is that it was reported after the attack. The Inquest was told that the RUC checked with AGS which confirmed the van was stolen between 7-7.35pm on 5 January 1976, as recorded in Job 64. Chief Superintendent Nyland told the Inquest that no information exists to support or dispute the information. However, in a Special Branch document of 29 January 1976 it is recorded that AGS, approached concerning vehicle thefts from Castleblaney on 4 January 1976, identified the vehicle as one of two stolen on that date, the other being a beige coloured Morris that was located at Cullaville on 5 January 1976. Police did not forensically examine the van. This represents a significant missed opportunity given the ambiguity concerning the time of its theft, its physical and temporal proximity to the attack and the fact that it was found burnt out.

[161] There are several other examples of investigative leads not being pursued. At entry 32 of the Serious Incident Log a male caller was said to have information and job 10 was for a statement to be taken but there is no result recorded. At entry 30 of the Serious Incident Log there is mention of a white car at Mountainview Road and job 14 was to make inquiries but no result is recorded. At entry 51 of the Serious Incident Log there is potential information concerning vehicles which were to be investigated at job 27 but no result is recorded. At entry 52 of the Serious Incident Log there is a note concerning the absence of s121 from the area which was to be followed up in job 28 but no result is recorded. At entry 56 of the Serious Incident Log there is reference to s39, associated with the IRA, having been at the scene, which was to be investigated at job 38 but no result is recorded. At job 40, Nan Baird, who had been left off from the minibus shortly before the attack, was to make a statement but none was taken. At entry 80 of the Serious Incident Log s99 is implicated and job 51 was to get Special Branch information concerning him but no result is recorded. At Serious Incident Log entry 61 and job 65 the author of a Daily Mail article was to be asked about his source, but no result is recorded. At entry 69 of the Serious Incident Log information received on 8 January 1976 by way of the Confidential Telephone Line is recorded concerning a call made at 5.10pm on 6 January 1976. The caller was convinced the attack had been arranged and planned by s119 and further implicated s91, s92, s32. Mr Mitchell was asked about s119 in evidence, and he was not known to him. The attendant job 49 called for s119 to be arrested but no result is recorded. Log entry 81 dated 11 January 1976 states that an anonymous source gave information that s66 could be the intelligence source

responsible for setting up the shootings and could have kept the arms used, adding that the meeting place for the unit is believed to be associated with s119. Serious Incident Log entry 86, dated 13 January 1976, also indicated that s119 was to be arrested to assist the investigation but no result is recorded at Job 52. At entry 85 of the Serious Incident Log police record information received from AGS Special Branch on 12 January 1976 that the hijacked van used in the attack was met by a blue car north of the border and both travelled in convoy. Despite its provenance there is no record of any action being taken concerning the information.

[162] It is probable that some of these matters were not prioritised for sound reasons by experienced officers. An example of this may be Mr Mitchell's decision not to interview members of the bereaved Reavey family despite information that they had been diverted at Kingsmill Crossroads before the attack or present at the scene shortly after the attack. Mr Mitchell noted at Serious Incident Log entry 56 that to interview would be considered indiscreet. A job number was allocated but it records no result. It is also possible that some actions were dealt with but not recorded. An example of where this happened relates to Job 1 which was to take a statement from Richard Hughes. No result is recorded but a statement was taken from him. There is also evidence of considerable efforts outside the Serious Incident Log. For example, pen pictures of many suspects, including s91 and s54, were gathered.

[163] A number of entries in the Serious Incident Log demonstrate the difficulty police had with misinformation. For example, entry 85 included information that Patrick Finnegan had been stopped at the ambush point a short time beforehand but then been allowed to go on. There is a reference to "see entry 110" but that is missing, and Mr Mitchell could not say what action had been taken. In fact, Patrick Finnegan was the driver of the Sinton's Linen and Flax Factory minibus. He was not on the Kingsmill Road, but he gave evidence concerning a confrontation with an armed and masked man who emerged from a minibus on the Kesh Road. Mr Finnegan said that he was visited by two police officers but that they did not take his statement. Ultimately, he spoke to PONI in 2016 concerning his experience.

[164] Norman Copeland, noted at entry 56 in the Serious Incident Log, was said to have been driving from Newry and diverted at Magees' by the IRA using a red signal. Action 41 stated that he should be interviewed but the result recorded simply stated that he was not known in Whitecross. The Inquest was subsequently told that he lived in Bessbrook. Ultimately the matter was addressed as part of PONI's investigation in 2016. Mr Copeland's travelling companion, Allen Kinnin, confirmed the two had been travelling on the Kingsmill Road coming from Newry when they were stopped by a young boy just before the Tullywinney Road. The boy was shouting not to go further as a couple of people had been shot dead, so the men turned and left. The original information regarding being stopped by the IRA and the reference to an IRA diversion at Kingsmill crossroads were unsupported by the evidence.

[165] At entry 84 of the Serious Incident Log it is recorded by Sergeant Heasley that on the evening of the murders a works minibus was redirected by gunmen on the

Whitecross side of the scene. The entry was associated with job 55 which said a statement had been taken from driver Harold Glenny. A further entry on the Serious Incident Log the same day stated that a van was stopped by masked men a short time before the murder between Kingsmill and Whitecross and the driver told to take a different route. Elsewhere s26 was implicated in this action. This was answered in job 61 by a reference to Mr Glenny. In a statement made in January 1976 Mr Glenny told the Inquest that he had left Markethill at approximately 5.45pm on 5 January 1976, leaving employees of Regal Styles off at various points from a blue Ford Transit Mini Bus, registration AIJ 6502. As he travelled along the Kingsmill Road from Whitecross, approaching the Priest's Bush Road, he was stopped by three young men, all respectably dressed, standing in the centre of the road who asked him his direction of travel and who then directed him down the Priest's Bush Road. A car followed him down the road at fast speed and he noticed a white van ahead. Given the timings involved it is unlikely that Mr Glenny observed anything of significance. He left Markethill eight minutes after the attack was reported to police and his journey involved the deposit of a number of people along the route. It is likely that those who directed him were simply attempting to prevent unnecessary traffic build up at the scene of the shooting and nothing more. While Mr Glenny was not asked to reconcile the suggestion that the men had been either armed or masked, it is likely simply to be misinformation coming to police concerning an innocuous event.

#### *Potential significance of the H&P Campbell minibus hijacked at Ballymascanlon, County Louth*

[166] On Monday 5 January 1976 Michael Morgan and Patrick O'Donnell, employees of H&P Campbell, Building Contractors, 40 Kilmoney Street, Newry, were working on a broken down digger at a building site in Ballymascanlon, outside Dundalk, County Louth. The men had travelled to the site in their firm's Bedford van, registration number DIA 8287 which was parked close to the digger, about 100 yards from the gate of the site. At approximately 3.20pm Mr Morgan felt something against his back and heard a voice say, "I want that van." Mr Morgan said, "There it's for you." He turned around and saw a hooded man, aged 30-40, 5'6 to 5'8 in height, wearing dark clothes and holding a handgun. Mr O'Donnell, who thought the man was in his mid-20s, noted that the gun was held in the man's ungloved left hand and that he had a Northern Irish accent. Mr Morgan and Mr O'Donnell were allowed to remove some goods from the van before the armed man drove it away, telling them not to report it for 20 minutes (O'Donnell) or half an hour (Morgan). He drove off in the direction of the Newry to Dundalk Road. The men reported the incident to their firm and the firm reported it to AGS. AGS reported the hijacking to the RUC at 3.45pm on 5 January 1976 and that is recorded in the Serious Incident Log at entry 34 where the van is described as coloured blue, a description repeated in job 16. Both employees were arrested and released without charge as part of the Kingsmill investigation and absolutely no suspicion hangs over the men. Neither of the men reported seeing another hijacker but the van was seen at around 3.50pm that day by Thomas Caldwell, an employee of A. Shiells & Co, travelling along



Merchants Quay, and two men were in the front. He described the driver as lightly built with dark, long, straight hair and the passenger as of stocky build with medium, long hair. It was not until 4.15pm that day that Mr Caldwell knew the van had been stolen. There are references in the Army logs both to the van being hijacked (noted at 1550) and then being seen in Newry (noted at 1645).

[167] Campbell O'Callaghan, a director of H&P Campbell, reported that the van was seen at 5.50pm at the Happy Days crossroads, that two men were in the vehicle, and one was seen to get out at the crossroads. The report is recorded in the Serious Incident Log at entry 60. Although undated, the information appears to have been with police on 7 or 8 January 1976. The associated job at 57 raises the possibility that two men got out. This information appears to be associated with the evidence of an H&P Campbell employee, Kevin Lamph although at job 60 it is associated with Thomas Caldwell who saw the van much earlier in the day. Mr Lamph, who made a statement to police the day after the attack, told the Inquest that at 6.10pm on 5 January 1976 he had been at the junction of the Maphoner Road with the Newry Road, intending to turn right in the direction of Newry, when he saw the van travelling on the Newry Road in the direction of Crossmaglen. He said he got the impression that the van was travelling fast. He describes it as swerving to avoid him as he edged onto the Newry Road. He did not see how many occupants it held. Neither Mr Lamph nor Mr O'Callaghan was asked by police to clarify the issue concerning disembarkation.

[168] By 6 January 1976 the van had clearly assumed a central place in the investigation. Entry 36 in the Serious Incident Log states: "It is now believed that the van was used to carry the murder gang to and from the scene." By 6 January 1976 police were in possession of persuasive intelligence information indicating that s91 had been the hijacker of the H&P Campbell van. A known IRA terrorist, described by Charles Hamilton as the Officer Commanding the IRA in the Louth area as far as Cullyhanna, he became and remained a central suspect in the Kingsmill investigation. Papers available to the inquest indicate that by 8 January 1976 police had researched s91's Special Branch file. It is likely that s91 was circulated in a RUC Gazette, an internal publication describing wanted persons, on 9 January 1976, although no copy is available. S91 was arrested in Dundalk under section 30 of the Offences Against The State Act 1939 three days after the deaths. He was questioned and denied any involvement in the hijacking or the shootings and, in the absence of any evidence, he was released. He was arrested again by AGS on 14 January 1976. The difficulty in attaching s91 evidentially to the hijacked van, and the difficulty with intelligence generally, was exemplified when police sought out the source of the information while investigating the newly identified palm print and found it incapable of being perfected.

[169] AGS recovered the vehicle in Cullenstown, Ready Penny, Dundalk, County Louth, on 6 January 1976 and took it to Dublin for fingerprint examination by the RUC. There is a note on an AGS Ballistics Section case intake book indicating that three officers, including on further inquiry one from AGS Ballistics and another from AGS Photography, attending at the disposal site on 6 January 1976. The note is

suggestive of nine exhibits being obtained although the RUC only appear to have submitted five for forensic examination (72 - firearms residue, 73 - broken offside wing mirror, 74 - hair from a white horse, 75 - hair from outside the van and 84 - soil and vegetation samples) and it is unclear whether further samples, if taken, were handed to the RUC. The note makes explicit reference to "1 hair ex left front wing" and "2 Sample ex pony in field at scene" suggesting a correlation with exhibits 75 and 74 respectively. So called "hair and fibre" samples were handed over, although to who is not stated, on 9 January 1976. There is reference to items being returned to fingerprints although this may refer to the onward transmission of the van to Dublin for RUC fingerprint inspection. The scant evidence available persuades the Inquest that the forensic collection work done in Readypenny was by AGS. Chief Superintendent Nyland of AGS told the Inquest that there was reference in correspondence from April 1976 that the vehicle had been examined by a Detective Sergeant Garavan of AGS Technical Bureau with negative results. No AGS file has been located in respect of the vehicle and no records concerning a technical examination were available to the Inquest. The examining officer was approached by AGS but was unable to assist. There is no information before the Inquest concerning the handling of or continuity of the exhibits. The physical exhibits were submitted to the Department of Industrial and Forensic Science on 12 January 1976 but there is no record of their examination, and they cannot be located. Ultimately, the forensic output from the H&P Campbell vehicle is limited to prints and firearms residue analysis.

[170] The evidence before the Inquest confirms that the H&P Campbell Bedford van DIA 8287 correctly fell under suspicion because of the temporal proximity between the hijacking and the attack, the methodology used to carry out the hijacking including the use of a weapon, the ability of the van to carry a large number of men and equipment, a sighting of the van close to albeit not at the scene of the attack and the significance of the involvement of s91.

### *The palm print*

[171] On 8 January 1976 an examination of DIA 8287 took place at AGS Headquarters. The examination was conducted by Constable Joe Hampton and Sergeant Joe Meldron of the RUC Fingerprint Branch. Palm prints marked 1A and 1B were recovered from the inside of the passenger side front window. The two marks constitute a left palm print lifted in two pieces. There is nothing to confirm the marks were given to AGS although the Serious Incident Log records a message from AGS, Dublin, on 9 January 1976 via Superintendent Drew, confirming that a palm print was located. AGS did not open a crime file regarding the recovered vehicle. Papers considered by the Inquest indicate that the prints of s114, s29, s112, s93, s101, s100, s59, s40 and s41 were all compared with negative results by or before 14 January 1976. That is the same date that s54 is first mentioned in the police Serious Incident Log.

[172] Until the Inquest commenced it was thought that the owner of the palm print could not be identified. Indeed, the HET had gone to considerable ends to identify its owner. Dr Ruth Griffin, engaged as a lead scientist to assist HET, told the Inquest that the palm print was submitted for DNA analysis in 2014 but no profiling information was obtained due to insufficient quantities of DNA. A fingerprint lift from the vehicle was submitted for DNA testing in 2016 but no useful DNA profile was obtained.

[173] On the morning of 31 May 2016 the Inquest was informed by counsel for the PSNI that an identification had been made matching the palm print. The Inquest subsequently learned that the marks had been made by s54.

[174] The first mention of s54 concerning Kingsmill is to be found in the Serious Incident Log at entry 89 and appears to be dated 14 January 1976. The action sheet indicates that he was considered to be in the IRA. S54 was then further implicated in December 1976 as a result of a single, but potentially important, intelligence document. There is also intelligence linking s54 to the murders at Tullyvallen Orange Hall on 1 September 1975, the IRA murder of Sergeant Simon Francis on 21 November 1975 and the IRA murder of four soldiers at Forkhill on 17 July 1975. He was arrested by AGS alongside s7 on 14 January 1976 although the arrests were not in relation to Kingsmill but other suspected terrorist activity. His name was not connected to the atrocity by AGS at that time although AGS considered him to be a member of the IRA and a Chief Superintendent Cotterell made a statement to that effect for the purpose of his trial on terrorist offences which took place in 1976. There is no evidence that the first RUC implication of s54's potential involvement in Kingsmill, dated 14 January 1976, was shared with AGS.

[175] S54 had been arrested in Dundalk for terrorist offences and his palm prints taken by AGS on 2 October 1975 however they were not in the possession of the PSNI until 2 November 2010. His fingerprints, also taken on a double sided form on 2 October 1975, had been sent to the RUC on 17 April 1981 but unfortunately his palm prints were not forwarded at that time. Had the palm prints of s54 been available to the RUC in 1976 then a match could have been made in the immediate aftermath of the killings. The investigating officer, James Mitchell, accepted that the Irish authorities ought to have been asked for the palm print at the time of the original investigation. That inquiry ought to have been made when s54 was identified as a suspect in 1976. It is apparent that AGS did not open a crime file for the H&P Campbell vehicle. Had it done so, then again, the print may have been identified in early 1976.

[176] As part of the exercise undertaken by the HET, 1A and 1B were sent to AGS Technical Bureau on 29 July 2010 in order for them to be searched against their database. On 22 September 2010 the Bureau informed HET's fingerprint expert, Dennis Thompson, that the search result was negative. This must have been an error.

[177] On 14 September 2010 a HET officer supplied Mr Thompson with 25 suspect names and asked which did not have palm prints available for comparison. On

26 October 2010 Mr Thompson sought 13 sets of palm prints from AGS which was able to confirm that same day that s54's palm prints were held. S54's palm prints were forwarded to Mr Thompson on 2 November 2010 and added to the Automatic Fingerprint Recognition database on 4 November 2010.

[178] On 8 November 2010 Mr Thompson compared 1A and 1B to s54's palm prints and incorrectly recorded a negative result. On 7 October 2014 Mr Thompson further searched 1A and 1B against the entire national fingerprint database on a new system called IDENT-1 and although s54's prints were identified at number 3 as a possible match Mr Thompson recorded a negative result. Mr Thompson was working directly to the HET and was the sole fingerprint expert engaged by it.

[179] On 24 May 2016 a fingerprint officer, David Traynor, conducted his own search for 1A and 1B on IDENT-1 and identified a match with s54.

[180] The mistakes made during the HET investigation were human error. There was no attempt by the operative to obscure the work that had been done. Neither was there any evidence to suggest a sinister motivation behind the negative results. At the time, while positive identifications were peer reviewed there was no such process for negative results. A new procedure has now been introduced by PSNI's Fingerprint Bureau and now where a mark is searched or compared in cases of serious or terrorist crime every negative result is checked by another expert.

***DCI Harrison on the van and palm print investigation:***

[181] Following the identification of the owner of the palm print s54 was arrested in the Newry area under section 41 of the Terrorism Act 2000 on Friday 5 August 2016. His reply to caution was: "I'm dumbfounded." He was interviewed in Musgrave Street Serious Crime Suite on 5 and 6 August 2016. He refused to speak or acknowledge any question put to him by police during his detention although at one point when asked what he could tell police about the massacre he answered, "Not a thing." Employment records checked by police confirmed that s54 was not employed by the owner company. Patrick O'Donnell was interviewed and said the van was mainly used by he and Mr Morgan and it would not have been used for personal business.

***Other evidence concerning the Bedford Van DIA 8287:***

[182] DNA was not understood in 1976 and the focus of the forensic work on the van concerned the taking of prints. However, the Inquest heard that the van was swabbed for firearms residue. Dr Griffin told the Inquest that 29 examination swabs were taken from the H&P Campbell van for residue and that the swabs were taken from all the areas she would have expected: Nearside window exterior, outside window exterior, outside door handle, nearside door handle, rear door handle, petrol cap, steering wheel, indicator stick, gear knob, handbrake, instrument panel, front driver's seat, front passenger seat, heater controls, ashtray, dashboard, outside

rear seat back, outside rear seat front, nearside rear seat back, nearside rear seat front, rear seat back nearside back, rear seat back nearside front, rear seat back outside back, rear seat back outside front, nearside window interior, outside window interior, rail at rear passenger seat, rear of driver's seat, outside sun visor. Dr Griffin said that the purpose of the examination would be to ascertain if a recently fired weapon had been carried in the vehicle or if somebody who had fired a weapon had touched the surfaces of the vehicle. Not every surface could be swabbed as the surfaces also need to be fingerprinted.

[183] The firearms residue testing, which the Inquest considers to be entirely comprehensive, yielded a negative result. Jacynth Hamill, Forensic Scientist, Department of Industrial and Forensic Science, told the Inquest that if a group of men had discharged weapons as in this atrocity and then entered the van it was quite likely that residue would be deposited through contact with clothing or weapons.

[184] Soil samples would be taken to see if a vehicle's tyres or a suspect's shoes seized within a reasonable timeframe would bear the same soil. It was a limited exercise in 1976 but soil matching could potentially be used to corroborate other evidence. While soil samples were taken from in and around the Kingsmill scene and the field where the H&P Campbell van was found there were no soil samples from the van itself and so it would not have been possible to compare the H&P Campbell van with the Kingsmill scene for soil. Paint samples, metal samples and a broken driver's wing mirror were submitted from the H&P Campbell van but there is no record of these being examined. Mirror glass found 50 yards from the scene of the atrocity was amongst items disposed of on 22 January 1982. It is no longer possible to establish if there was a link between the mirror glass found close to the scene and that of the broken wing mirror from the H&P Campbell van. Other items from the scene disposed of in the same order include glass fragments, glass fragments from the verge 50 yards away, a metal fragment found 50 yards away, glass found 150 yards away and a coat found 150 yards away.

### *Forensic issues*

[185] All of the deceased were examined by a forensic pathologist. The reports of the examinations are dealt with elsewhere in these findings. They provide essential information concerning the brutal manner in which the men were killed.

[186] Firearms analysis was completed as a priority in 1976. The first request for ballistics analysis was made on 5 January 1976. An analysis of the weapons used at Kingsmill is dealt with elsewhere in these findings. It has allowed the Inquest to make confident findings concerning the organisation responsible for the atrocity. Dr Ruth Griffin, who was the lead forensic scientist to the HET investigation, told the Inquest that DNA was not understood at the time of the atrocity and so examination of physical evidence relied on fingerprinting. Bullet casings were not examined for fingerprints but the Inquest notes that quite apart from the fact they

were mostly collected in poor weather, in advance of the arrival of police, and secured by police without gloves, the high temperature of discharge can destroy such evidence. Dr Griffin told the Inquest that on rare occasions DNA had been retrieved from a spent casing. A single live round of .30 M1 Carabine ammunition left at the scene and recorded at exhibit 12 could potentially have garnered both fingerprint and DNA evidence but no record exists of it being fingerprinted. Dr Griffin added the caveat that fingerprints from a live round tended to be fragmentary, that viability would depend on where it had been recovered and decisions as to forensic examination would be made by an experienced scenes of crime officer. A Garand clip recovered from the scene and recorded at exhibit 11 was not examined during the original investigation but was examined by Dr Griffin and found unsuitable for fingerprint or DNA extraction. She considered that it may have been unsuitable for fingerprint examination even in 1976 due to its condition.

[187] Multiple samples were taken from the area surrounding the attacked minibus. These include glass from the scene, glass from 50 yards away on the Whitecross side, glass from 150 yards away on the Whitecross side and glass from the minibus. Soil was taken from tyre tracks in the field at the scene and other soil and grass samples from the area surrounding the minibus.

[188] Exhibits were collected from the H&P Campbell van in Dundalk, and this was probably the work of AGS. Elsewhere in these findings there is evidence that AGS conducted its own forensic examination of the H&P Campbell van, but no records can be found of it. Samples were also taken of soil and vegetation from the field in Readypenny but not from the tyres of the H&P Campbell van. Accordingly, there was no opportunity to compare the soil on the tyres of the H&P Campbell van with the soil at the scene of the attack. While soil analysis was unlikely to have offered anything better than corroborative evidence at the time this still represents a missed opportunity.

[189] In examining the Kingsmill Road investigators secured mirror and fragments in a layby 50 yards on the Whitecross side of the attack. A broken offside wing mirror was secured from the H&P Campbell van in Readypenny. Although submitted to the Department of Industrial and Forensic Science there is no record of these mirrors being tested and so it is not possible to establish a link between the broken mirror at Kingsmill Road and the broken mirror in Readypenny. There was no satisfactory explanation as to the absence of a report. This represents a significant missed opportunity. Soil was taken from the same layby but, as already noted, no material was taken from the tyres of the H&P Campbell van that could have been used for comparison.

[190] A review of the original forensic file confirms that while broken glass and soil samples from the scene were submitted for examination there is no record of any examinations being carried out. Items 66-71 comprising glass, mirror and metal fragments and a coat from the scene, were all disposed of on 22 January 1982, that disposal having been approved by the RUC. Soil and vegetation samples from the

Kingsmill Road and Readypenny were all destroyed in a fire at the Department of Industrial and Forensic Science on 18 September 1976. Most of the bullets recovered remain in storage but no further forensic opportunities exist.

### *Subsequent police investigations*

[191] On 18 May 1986 Samuel Mack became the Deputy Chief Inspector of the South Region, Armagh and was asked to review the Kingsmill killings. He said he contacted AGS at Crime Headquarters in Dublin to seek information about the whereabouts of s91 and s32 – those named in Mr Mitchell’s final report – but that he did not receive a response. He had a contact within AGS who he would meet informally in order to share information with each other. That contact was unable to identify the whereabouts and movements of s91 or s32, but they were said to be “on the run” and living between Dundalk and Dublin. He found there to be no evidence contained in the file papers to raise sufficient grounds to obtain warrants or to commence extradition proceedings in respect of any suspects named or otherwise. The focus of correspondence between Mr Mack and his superior officers remained on the possibility of admissions made at interview.

### *On The Run*

[192] The Inquest took some time to consider the circumstances of granting of so called “letters of comfort” to s77 and s97. This inquiry, which involved both the gathering of information concerning decisions surrounding the two men and evidence to the Inquest, was not central to the proceedings but was conducted as the matter was of considerable concern to many close to the Inquest. The observations made concerning the issue are not material to the Inquest’s findings.

[193] Both s77 and s97 were issued with such letters on 20 July 2007. In summary, the Inquest heard that a scheme was established in the wake of the Good Friday Agreement to provide a mechanism to deal with those outside the jurisdiction suspected of terrorist offences and at risk of arrest upon return to Northern Ireland or elsewhere in the United Kingdom. A system developed whereby Sinn Fein would supply names to the Northern Ireland Office (NIO) and these would be checked by the Public Prosecution Service (PPS) and PSNI via the Attorney General (AG). If a person was not wanted, then a letter would issue to that effect.

[194] The scheme came under scrutiny following the collapse of the prosecution in *R v John Downey* on 21 February 2014. A report by Dame Heather Hallett concerning its operation was presented to Parliament on 17 July 2014. The review concluded that the scheme was treated as sensitive by the UK Government and details were not widely publicised. Political parties other than Sinn Fein contended that they were unaware of the scheme.

[195] The formerly piecemeal scheme gained impetus after police established Operation Rapid in February 2007. The timing suggested to the Hallett Review that it was established as a result of discussions with politicians who were pressing for a

speedier process. The Review stated that the Operation Rapid team in this period may have applied a higher threshold to categorise someone as 'wanted', focusing more on the test for prosecutors than on the test for investigators. Evidence to the Inquest suggested that a more robust attitude was taken to intelligence material in 2007.

[196] S97's name was submitted to the NIO by Sinn Fein on 10 January 2002 and on 22 January 2002 forwarded by the Secretary of State for Northern Ireland to the AG. On 3 March 2003 the police advised the Director of Public Prosecutions (DPP) that s97 was wanted for interview concerning serious terrorist offences and the DPP informed the AG of this on 6 March 2003. On 18 June 2003 the NIO informed Sinn Fein that s97 was still wanted. On 14 May 2007 the police wrote to the PPS advising that s97 was not wanted by the police and the AG so informed the Secretary of State on 7 June 2007. On 20 July 2007 the NIO informed Sinn Fein that s97 was not wanted and a letter for s97 was issued. S97 was one of 36 individuals whose status was changed from wanted to not wanted between February 2007 and October 2008.

[197] Sinn Fein provided s77's name to the NIO on 18 August 2006. On 24 August 2006 the NIO asked the AG's Department to check s77's status. On 14 May 2007 police informed the DPP that s77 was not wanted. The AG wrote to the Secretary of State on 7 June 2007. On 20 July 2007 the NIO informed Sinn Fein that s77 was not wanted and a letter for s77 was issued.

[198] In the course of argument it was suggested that the "clandestine arrangement" dealing with on the runs impeded the Inquest. While it is entirely understandable that the scheme and the manner of its operation may have caused dismay to those grievously affected by IRA terrorism, adding further insult to incalculable injury, given the absence of evidence against s77 and s97 the letters cannot be said to have impeded the Inquest. There is no evidence (as opposed to intelligence) before the Inquest implicating these individuals. The only benefit of their potential arrest would have been the hope of an admission - a hope that is unlikely to have been realised given the absence of cooperation by perpetrators with the Inquest. The issuing of letters to s77 and s97 did not have any impact on information available to the Inquest or to its ability to draw conclusions. Moreover, the Inquest is reassured by the conclusions of Dame Hallett's review to the effect that the administrative scheme did not amount to an amnesty for terrorists. Were evidence of culpability to become available those in receipt of a letter of comfort can still be held accountable.

### *Conclusions concerning the investigation*

[199] In parsing investigative actions concerning Kingsmill the Inquest reminds itself that the police did not take the lives of these 10 men. It would be entirely wrong for the Inquest to shift focus from those responsible. The deaths remains solely and completely the responsibility of the perpetrators. Police investigating the Kingsmill attack faced an overwhelming workload due to terrorist crime in South Armagh. The investigative resources available were entirely inadequate.



[200] Police actions at the scene of the attack ensured that it was mapped and photographed, that the bodies of the deceased were subject to proper examination and that the weaponry used in the attack was quickly identified. Police also ensured a comprehensive forensic examination of the area in and around the attack. Witnesses were spoken to and many statements taken, including from the H&P Campbell employees who were hijacked, Richard Hughes and Alan Black but the perpetrators of the attack were not visually identified. Local householders and drivers were actively questioned in an effort to gather information. Police pursued an examination of the H&P Campbell van in Dublin, discovered palm prints and took possession of samples from where it was located. A plethora of potential suspects were brought to police attention and a series of arrests of those involved in IRA terrorism were made but no evidence was available to put to suspects and no admissions were forthcoming. A number of lines of inquiry are not recorded as having been pursued although sometimes that may have been a professional policing decision and sometimes results may not have been written down. The inquiry took place in a time before computerisation and Mr Mitchell accepted in his evidence to the Inquest that the investigation would have been more professional in a modern day setting.

[201] The key difficulty faced by police was the absence of evidence. It may be speculated that a number of missed steps could have provided evidence. The palm prints on the H&P Campbell van were found on 8 January 1976. S54 was identified as a person of interest on 14 January 1976. His palm prints were in the possession of AGS at that time. They were not sought by the RUC as part of the initial investigation. While the Inquest has noted the limitations of interviewing terrorist suspects in the hope of admissions, a suspect questioned in the immediate aftermath of such an atrocity and asked to account for his palm print on a hijacked vehicle to which he does not appear to have had any legitimate connection may have been more likely to assist the investigation, even in the absence of anything to tie the van to the scene, than he would be many decades later. A potential opportunity to tie the H&P Campbell van to the scene through forensic testing of mirror glass found in a layby on the Kingsmill Road to a broken offside wing mirror from the van was lost, at the latest, when exhibits were destroyed with the imprimatur of the RUC on 22 January 1982. The Inquest was offered no satisfactory explanation as to why that comparative work was not done during the short active lifespan of the initial investigation. Other opportunities to match the H&P Campbell van to Kingsmill through soil and vegetation analysis seem to have been rendered impossible because of the absence of equivalent samples from the van. While there is evidence suggesting AGS examined the vehicle and gathered the samples no report has been located.

[202] There was understandable focus on the H&P Campbell van but ultimately it was found not to contain any firearms residue. A van stolen in Castleblaney and found burnt out in Ballsmill, ought to have been forensically examined given the physical and temporal proximity to the attack, intelligence surrounding its use, ambiguity concerning its theft and the manner in which it was destroyed. The

Inquest is realistic, however, concerning the limits of forensic opportunities emerging from a burnt out vehicle.

[203] The Inquest also considers that more work ought to have been expended on satisfactorily eliminating from the investigation the co-workers missing from the minibus on the day of the attack. In particular, the absence of scrutiny concerning s104, named by an IRA informant as one of the killers, is troubling.

[204] Some close to the Inquest have suggested that those responsible for Kingsmill were not subjected to criminal charges in order to protect an informant. Such an assertion is entirely without foundation in fact. It is unevidenced and unhelpful conspiracy theorising. There was no evidence of anyone being allowed to continue in criminal ventures in order to protect informers.

[205] The investigation was not perfect, but its deficits can be put down to the abnormal security environment of South Armagh in 1976, the extraordinary demands on the police and the murderous competence of those who executed the atrocity and left without trace. There can be little doubt that the likely suspects were known to those working in the security forces and that same observation was made by a number of witnesses both at the time of the incident and during the Inquest. Common knowledge as to those with the means and motive to carry out this heinous act does not amount to evidence.

### *Kingsmill military presence and related military issues*

#### *General*

[206] An issue frequently raised by those close to the Inquest concerned the contention that the Army was ordered not to patrol in the area of the attack on the evening of 5 January 1976. The matter was specifically highlighted in the evidence of Karen Armstrong, a sister of John McConville. She told the Inquest about a conversation Mr McConville's mother had with a Company Commander at Bessbrook Mill when she worked there in the early 1980s. In the course of the conversation, which the Inquest is satisfied took place as reported, the unknown Company Commander took Mrs McConville aside and told her that the Army knew who had committed the atrocity and that the Army had been told not to go out on patrol that night.

[207] At the time of the Kingsmill atrocity the Army still took the primary role in managing the security situation in Northern Ireland. Concerning South Armagh, the 1<sup>st</sup> Battalion Royal Scots had its headquarters at Bessbrook Mill on what was known as a four month planned roulement or emergency tour which started in mid December 1975. It was divided into five Companies, each headed by a soldier holding the rank of Major. Its Commanding Officer was Lieutenant Colonel PM Davies. MOD2 – then a Captain and Operations Officer in the Battalion – told the Inquest that it amounted to approximately 650 soldiers thinly spread over a large area and that Company Commanders would have had considerable autonomy. The Inquest heard evidence from MOD1 – Major Ron Brotherton – who explained that he

had been the Commanding Officer of a Company of 110 men in three platoons based in Newtownhamilton Police Station. Other companies were based in Newry, Forkhill and Crossmaglen.

[208] The Inquest notes that an observation of the Irish Minister for Justice, Patrick Cooney, reported in the Irish Independent of 7 January 1976, was that there ought to be an increased military and police presence in South Armagh with a high degree of random patrolling. He is quoted in the Irish Press of 7 January 1976 as having said that random patrols by AGS and the Irish Defence Forces had been in operation for a considerable time. Chief Superintendent Nyland of AGS gave evidence to the Inquest that no records were available concerning Irish Army checkpoints prior to the attack but that past experience showed Irish Defence Forces were utilised to perform checkpoints with AGS on a frequent basis during the period. Ian Paisley, reported in the same paper on the same day, called for the area to be saturated with troops. In the immediate aftermath of the atrocity 600 additional troops - the so called Spearhead Battalion - were brought to South Armagh.

### *Out of Bounds*

[209] The suggestion that the Kingsmill Road was out of bounds on the night in question was canvassed with a number of witnesses. The Commanding Officer described the claim as “nonsense” and stated that the area was not out of bounds - evidence that was repeated by all those who would be expected to have knowledge of the matter. Constable Edwin Scott, one of the first police on the scene, told the Inquest that murders like those of the Reavey family would bring in extra rather than fewer patrols.

[210] MOD1 - Major Ron Brotherton - told the Inquest: “I am aware that some of the relatives have implied that we did not cover the area adequately. However, we covered the area as best we could with the men we had. I drove on that northern road (Whitecross to Kingsmills) at least four times a week and more often at times. It was a safer road than Belleek ... I liked going through Whitecross because I knew it, I visited families there many times ... there were no “no go” areas that were out of bounds during my time. I was in Whitecross many times. I visited 12/13 families chatting with them etc. I travelled on that road many times. There were no areas out of bounds in the South Armagh region. The only area ever out of bounds to me was the Republic. There weren't enough soldiers to cover all areas at any one time, but it was an agricultural area.”

[211] MOD1 went on to say:

“I have been asked to comment about allegations made by family members that they were informed by an army officer in 1978 that the army were not in that area because they were told not to go there. That is untrue. We were there.”

[212] As to the Kingsmill Road and its environs, MOD1 said that in this area the Army would normally have used armed Landrovers but that different arrangements would be made for those areas further south.

[213] MOD2 also gave evidence concerning the alleged absence of the Army from the Kingsmill Road. He said that out of bounds orders would normally only be issued if there was a device in the area or there was a sensitive intelligence based operation occurring. It was his job to alert officers who would need to be aware of an out of bounds order and he was unaware of any such order.

[214] As to the army being told not to patrol on the night he told the Inquest:

“I can categorically state that this was not the case. It makes no sense and perhaps the information was misunderstood. At no time on that tour can I recall a period of time when soldiers were stuck in barracks ... The army did not tolerate “no go areas” after the 1972 operation Motorman so this was not the case either. I was asked to comment on further allegations that there was no Army presence on the 4<sup>th</sup> or 5<sup>th</sup> of January but that it resumed on 6 January. This is actually the opposite of what happened. The Army was maintaining a visible presence, prioritising those areas thought to be at more risk. The main objective was to prevent any further murders, no matter what side of the community was at risk.”

[215] Concerning general patrolling of the Kingsmill Road MOD2 told the Inquest that activity would be concentrated on likely targets and said:

“Protestant farmers in the Newtownhamilton area were being murdered or intimidated and this was a top priority for MOD1. The second priority was the area behind the border which ... includes the Kingsmills area. Therefore this area would not have been as heavily patrolled.”

[216] He drew the Inquest’s attention to a log entry from 5 January 1976 requesting additional personnel to make up a patrol and said:

“We were maximum deployed. We had every person who could be deployed out on the ground at that time because ... of the tit for tat murders.”

[217] In January 1976 MOD3 was a Captain serving with the Special Military Intelligence Unit, Northern Ireland, as a military intelligence officer for RUC Division H. He told the Inquest that he was the longest serving and most senior intelligence officer in South Armagh at the time of the shootings and was familiar with all intelligence operations, military and police, in that area. MOD3 told the Inquest that part of his role was to ensure that out of bounds areas were in place and

he said that there were no out of bounds areas in force on the night of 5 January 1976. He said that the 1<sup>st</sup> Battalion of the Royal Scots had only been based in Bessbrook since the middle of December and were not yet familiar with the area.

[218] Charles Hamilton was a constable stationed in Bessbrook Police Station. He told the Inquest that he worked mostly on his own alongside the Army which had headquarters in Bessbrook Mill and he said that relations between the RUC and 1<sup>st</sup> Royal Scots were good. He spent a lot of time out on the ground with the Army. Mr Hamilton sadly described the Reavey attack as “another incident” in what was clearly an exceptionally violent time. He maintained that it did not have any impact on the work of the security forces saying “... no areas were put out of bounds as a result of the Reavey murders and therefore no areas were out of bounds at the relevant time.” As to Kingsmill Road he said: “That part of the road where the incident happened would normally have been considered as a safe route.” He went on to say that he never remembered an out of bounds order for that road for all the period he was in post. The Inquest is satisfied that there was no out of bounds order for the Kingsmill Road on the night of 5 January 1976. The ostentatious show of strength by the terrorists, far in excess of what would have been necessary to subdue 11 unarmed men, strongly suggests that they were prepared for the possibility of encountering the security forces before, during or after executing the attack on the deceased. That conclusion is supported by intelligence noted in the Serious Incident Log at entry 89 which came to the attention of investigators through the UDR by way of Special Branch and stated that the terrorists “would have risked taking on a small patrol or V.C.P. if necessary.”

[219] In the course of the Inquest witnesses were questioned on a single Army log purportedly dated 5 January 1976 at 3pm and which made reference to the receipt of three signals. The first was secret, the second referred to a suspect device and the third referred to “out of bounds” although without a grid reference. MOD2 said he had never seen anything like the document before and had no idea what it referred to but considered that it might deal with the Battalion’s duties outside Northern Ireland. He concluded that the reference to Lance Bombardier suggested it was a document entirely unrelated to the 1<sup>st</sup> Royal Scots where the rank did not exist. MOD3 concluded that the document concerned 1 Queen’s Lancashire Regiment area rather than that covered by the 1<sup>st</sup> Royal Scots which included Kingsmill. The Inquest is satisfied that the document is unrelated to Kingsmill. The overwhelming evidence is that the Army was present in the vicinity of the Kingsmill attack as it took place.

### *Army in the vicinity at the time of the deaths*

[220] Evidence points to there having been an Army patrol on the ground within 1½ miles of where the attack was taking place. Charles Hamilton, then a police constable, told the Inquest that the RUC Divisional Commander had asked him about potential reprisals for the murderous attack on the Reavey family on the evening of 4 January 1976. He recalled telling him that Robb’s Bar, which the

Inquest understands to have been on the Tullyah Road around two miles north from the Mountain House Pub, would be a possible target, describing it as a "Protestant pub" frequented by members of the police and UDR. He understood that an Army patrol, unassisted by the RUC, had gone out that evening to monitor the flow of traffic around that area and that they were in that area when the shooting took place, estimating that the patrol would have been approximately one mile from the site of the atrocity. He told the Inquest that he was unaware of any special patrol groups operating and was unaware of any covert operations in the area that day. He said the Army went from Robb's Bar to the scene.

[221] The Inquest heard from MOD1 - Major Ron Brotherton. At the time of the atrocity Major Brotherton was the Company Commander of Support Company, working under the leadership of the Lieutenant Colonel who was based at Bessbrook Mill. Concerning their working relationship he said that the Lieutenant Colonel made decisions and MOD1 implemented them. The Lieutenant Colonel told the Inquest that he did not rule with an iron rod and that MOD1 worked his patch using his own initiative. The weight of the evidence supports the proposition that MOD1 acted with a large degree of autonomy and he told the Inquest that he had no formal orders surrounding the actions he took on the night of the deaths and that no records concerning it were maintained. MOD2 confirmed that each company ran its own patrol programme and that would not be reflected on a Battalion log sheet unless an incident occurred. Companies would have kept log sheets and there were log sheets at Battalion level.

[222] MOD1 - Major Brotherton - told the Inquest that reprisals were anticipated after the Reavey murders. He said that this assessment was not based on intelligence but that the actions he took represented his own response to the situation. He said it was his understanding that a wake had been planned for the Reavey brothers on the evening of 5 January 1976 and that "Republican sympathisers" were expected to attend. He and his men were picked up at Bessbrook at 5pm and taken to the patrol point by van. They were not supported by the UDR and MOD1 said if there had been UDR or Special Patrol Groups in the area he would have known due to the risk of friendly fire. Major Brotherton said he was unaware of the importance of Robb's Bar and nor was he alert to its mention concerning a revenge attack.

[223] MOD1 - Major Brotherton - said that he and his men executed a concealed foot patrol on the road north from the Mountain House Pub to Whitecross. Maps reveal that this is Tullyah Road. He described being in close proximity to mourners although the Inquest notes that the Reavey home was not on the Tullyah Road but just outside Whitecross at Greyhilla, and also doubts whether a wake would have commenced before the murdered men had been returned home. The Inquest also notes, however, the proximity of St Brigid's Church, understood to be the Reavey family parish church, to Robb's Bar on the Tullyah Road which opens up the possibility that mourners were indeed present around the patrol. MOD1 said the purpose of the patrol was to observe the movement of vehicles from the Republic of Ireland and he said that he was prepared to block the road if necessary. The

description of that activity is in keeping with recollection of Mr Hamiton. MOD1 described being positioned behind a hedge in the pouring rain and within two yards of mourners, establishing a firing position on the east side of the road and blocking positions north and south.

[224] Major Brotherton - MOD1 - said that the patrol had been in position for at least an hour when small arms fire (by which he meant more than one rifle) was heard emanating from some miles to the north. He described having heard two long volleys of shots. MOD1 said he would have been prepared to stop vehicles travelling south but that no vehicle passed of which he was aware.

[225] MOD1 - Major Brotherton - said that much later (hours later) Battalion HQ informed him of the shooting and told him to go to the scene. He said the same driver who had left him to the patrol site picked him up and took him to the scene via Whitecross. He recalled police being there with forensics but could not remember civilians or ambulances. He said that bodies were on the road, and he thought he arrived before Mr Black was moved although that seems unlikely as other evidence supports the conclusion that Mr Black was removed quickly from the scene. He said his task was to stake out the scene and protect police, not to investigate. He said the Army was there for many hours.

[226] MOD2 told the Inquest that at 6.36pm a helicopter went to Robb's Bar and picked up MOD1 - Major Brotherton. Major Brotherton said that this record did not accord with his call sign and said that he had travelled by road to the scene, having been picked up by the driver who had deposited him in position earlier in the day. However, MOD2 clarified that the records reflected Major Brotherton's proper callsign on the *Battalion* log as opposed to the Company log. At 6.37pm 52 E Call Sign recorded the first mention that the Army were at the scene and MOD2 said that this was one of Major Brotherton's patrols. Major Brotherton accepted that the grid reference for the helicopter pick up would have been near to where he had been positioned. The Inquest prefers the evidence given by MOD2 on this matter and concludes that MOD1 - Major Brotherton - was transported to the scene by helicopter from in and around his concealed patrol point on the Tullyah Road. While there may be some variations in the accounts as to precise locations and objectives, the totality of the evidence confirms that the army was patrolling close to the scene of the attack on the evening of 5 January 1976.

[227] There is some doubt as to follow up. MOD2 said that after his attendance at the scene MOD1 - Major Brotherton - briefed Lieutenant Colonel Davies at Bessbrook and that Lieutenant Colonel Davies went to the scene. Lieutenant Colonel Davies said that he had not been briefed or attended the scene, stating that the operation did not involve the Army as it fell to the RUC rather than the Army to investigate the attack. The Inquest notes that in the Belfast Telegraph of 6 January 1976 Lieutenant Colonel Davies is said to have headed investigations at the scene.

## *Robert Nairac*

[228] One of the perennial rumours since the Kingsmill atrocity surrounds the purported involvement of Captain Robert Nairac. The rumours are likely to have arisen due to the fact that the terrorist who brought the minibus to a stop had an English accent, Captain Nairac's reputation as a soldier who adopted unorthodox strategies in combatting terrorism in Northern Ireland and his own tragic murder by the IRA. In the intervening decades the absence of publicly available and reliable information concerning both the Kingsmill deaths and Captain Nairac's whereabouts has fuelled the rumours. Concerns regarding Captain Nairac have been raised in the past by some who are close to the Inquest although they had largely been allayed in advance of the conclusion of the evidence. Gerard Byrne gave multiple hearsay evidence concerning what he had been told concerning Captain Nairac but none of his sources were available to the Inquest. He had confronted Mr Black with the rumours and the Inquest is clear that Mr Black at no time put it to Mr Byrne that Captain Nairac was involved.

[229] Colonel Simpson told the Inquest that he was the Deputy Assistant Chief of Staff for Personnel Services within the Army Personnel Services Group. He had considered the personnel file relating to Captain Robert Nairac, George Cross, of the Grenadier Guards, which gave his assignment history from his cadetship at Oxford University. Captain Nairac was sent for military training at Sandhurst in September 1972. He was posted to the 2<sup>nd</sup> Battalion of the Grenadier Guards as Second Lieutenant in January 1973. He was then posted to a Captain's vacancy in a follow on unit called the Northern Ireland Training and Advisory Team in Northern Ireland in April 1974. This unit was concerned with covert surveillance in which Captain Nairac was a liaison officer rather than an operative according to MOD3. Captain Nairac was posted to a Captain's appointment with the 1<sup>st</sup> Battalion of the Grenadier Guards in May 1975, taking the promotion exam to Captain in September 1975. His final appointment was to a follow on unit at the end of April 1976. Captain Nairac was abducted and murdered on the night of 14 May 1977. He was posthumously awarded the George Cross, that announcement being made in the London Gazette on 3 February 1979. The Gazette stated that Captain Nairac had served four tours of duty in Northern Ireland totalling 28 months.

[230] While there is no precise record of Captain Nairac's movements on 5 January 1976 a number of documents considered by the Inquest offer insight into his activities at the time. In the year between May 1975 and May 1976 Captain Nairac was assigned to the 1<sup>st</sup> Battalion of the Grenadier Guards and there is no evidence of him participating in any professional activities outside the Battalion. The Battalion was initially performing ceremonial duties in London and was based in Chelsea Barracks.

[231] A confidential appraisal report on Captain Nairac's performance between May 1975 and May 1976 describes his role as reconnaissance platoon commander. It records any significant activity and actions taken by the subject officer. The reconnaissance platoon was reformed from scratch in late 1975 and this would have represented a significant undertaking for Captain Nairac. The regimental journal of



the Grenadier Guards, known as the Grenadier Gazette, records that the 1<sup>st</sup> Battalion Grenadier Guards commenced a protracted unit relocation move from Chelsea Barracks in London to Pirbright in Surrey between 12 December 1975 and 7 January 1976. As the platoon commander of a key platoon within the Battalion, Captain Nairac would have had responsibility to ensure his soldiers, vehicles, equipment and stores were moved and accounted for correctly. Colonel Simpson said this would have been a very demanding task.

[232] From 6 January 1976 members of Captain Nairac's Battalion were leaving the UK to take part in a training exercise named Swift Tiger. The entire Battalion was in Kenya from 21 January 1976. Captain Nairac left the UK for Kenya on 13 January 1976 and returned to the UK on 2 March 1976. This was a major exercise and Captain Nairac would have had responsibility for supervising his platoon as it prepared its personnel and accounted for and packed its weapons, equipment and stores for the deployment. His responsibilities would have been greater given that this was a newly formed platoon.

[233] In January 1976 MOD3 was a Captain serving with the Special Military Intelligence Unit, Northern Ireland, as a military intelligence officer for RUC Division H. He was the longest serving and most senior intelligence officer in South Armagh at the time of the shooting and was familiar with all intelligence operations, military and police, in that area.

[234] MOD3 was friends with Captain Nairac. He confirmed that Captain Nairac had been on regimental duties with his Battalion at the time of the atrocity and told the Inquest it would have been impossible for him to infiltrate the South Armagh IRA given his other responsibilities in the period before the attack. More significantly he told the Inquest: "During the same period there was no trace of his appearing in South Armagh. If he had been carrying out some legitimate intelligence task in the area, I would have been aware of it. If he had been trying to operate unsupported in the area, Special Branch (and therefore myself) would have become aware of it. In any case, he would not have survived." In short, if Captain Nairac had been in South Armagh, MOD3 was completely confident that he would have known about it. He told the Inquest that it would have been impossible for an outsider to move around South Armagh without being scrutinised, such was the impenetrable and tightly knit community. He said that it would have been impossible for him to infiltrate South Armagh IRA. His evidence was that Captain Nairac could not have realistically passed for an Irishman. MOD3 went on to say that he knew Captain Nairac to have left Northern Ireland in or around April or May 1975. MOD2, a Captain and Operations Officer of 1<sup>st</sup> Battalion Royal Scots based at Bessbrook Mill at the relevant time, told the Inquest that he had spoken to the Battalion Intelligence Officer based at Bessbrook who had told him that Captain Nairac had never been to Bessbrook.

[235] The Inquest unreservedly accepts Mr Black's recollection that the terrorist who stopped the minibus used an English accent. That terrorist knew, however, that one man, Mr Hughes, would be spared death. It may have been a false accent employed to reassure those in the minibus that it was being stopped by the Army or

potentially to prevent Mr Hughes giving identifying evidence regarding the terrorist's voice and accent. Even if it was a genuine accent there is persuasive evidence from Charles Hamilton that an IRA terrorist with an English accent was operating in the area at the relevant time. The man identified by Mr Hamilton is different from s37 who was also said to have an English accent in intelligence received by police in December 1976. At least two suspects mentioned in intelligence had English accents.

[236] The Inquest is entirely satisfied that Captain Robert Nairac had no role whatsoever in the Kingsmill atrocity. He was based in London on 5 January 1976. The evidence before the court was that he was fully engaged in demanding Battalion duties at the relevant time. He was not in South Armagh on 5 January 1976 or in the period beforehand and the notion that he would have been able to infiltrate the IRA in that area is the stuff of utter fantasy. Captain Robert Nairac was a highly decorated soldier, and his memory is ill-served by those who persist in rumour mongering concerning his involvement in Kingsmill. Moreover, the false accusation serves to distract from the proper attribution of responsibility to those who carried out the attack.

### *Findings concerning the military*

[237] The Kingsmill Road was not considered to be an area of particular danger or threat. There was no out of bounds order on the Kingsmill Road on the evening of the killings. The Army was present and undertaking a covert patrol a short distance from the attack as it occurred, and that same patrol later assisted at the scene. Rumours concerning the involvement of Captain Robert Nairac in the Kingsmill attack are entirely false.

### Attribution

#### *Formal claim of responsibility - the Reavey and O'Dowd murders*

[238] At 10:49 hours on Tuesday, 6 January 1976, Belfast Newsletter received a call from a male claiming responsibility for the attack. On 12 January 1976 police appear to have linked the number used to a Newry pub but no further action is recorded as being taken.

[239] At 12pm on 6 January 1976 police record in the Serious Incident Log that a call had been made by an unknown organisation and the associated job number states that the caller had claimed responsibility. A telephone kiosk at Clough linked to the report was forensically examined with negative results as recorded in the Serious Incident Log at entry 31 and Job 15.

[240] The caller to the Newsletter stated: "This is the South Armagh Republican Action Force. We wish to claim full responsibility for the shootings last night. It is in retaliation for the killings on Sunday night of the Reavey Brothers at Whitecross and the O'Dowd family at Ballydugan."

[241] On the evening of 4 January 1976 loyalist terrorists carried out gun attacks on two families, the Reaveys in Greyhilla, Whitecross and the O'Dowds in Ballydugan near the village of Gilford in County Down. John Martin Reavey, Brian Reavey, Barry O'Dowd, Declan O'Dowd and Joseph O'Dowd were shot dead that night and Anthony Reavey died later.

[242] Contemporaneous newspaper reports include what appears to be communication from the so called South Armagh Republican Action Force. A report in the Belfast Telegraph on 6 January 1976 quotes a person saying that 12 gunmen were involved, that they had immediately split up and dispersed into South Armagh and that no further action would be taken unless there was retaliation. The person is quoted as saying "We are a completely separate organisation and have no connection with the Provos." The same report appeared in the Irish Independent the next day. This additional information does not appear to have been considered by the initial police investigation. No other individual or organisation has taken responsibility for the Kingsmill atrocity.

### *Forensic attribution*

[243] Constable Derek Smith was stationed at Newry RUC Station and attached to the Scenes of Crime Branch. He attended the scene at 7.15pm at which time eight of the deceased remained present on the road. Constable Smith collected and removed a number of spent cartridge cases and bullets which he packed and labelled at Newry RUC Station alongside Gary Montgomery, a member of staff from the Forensic Science Laboratories, Belfast. The cases and bullets recovered at the scene on 5 January 1976 were exhibited as:

- Exhibit 1: 21 spent 9mm cases
- Exhibit 2: 13 spent .30 cases (M1)
- Exhibit 3: 10 spent .3006 cases
- Exhibit 4: 13 spent 7.62 NATO cases
- Exhibit 5: 79 spent .223 cases
- Exhibit 6: 1 spent 7.62 case found in ditch at rear offside of van
- Exhibit 7: 1 9mm case found on ground at nearside of van
- Exhibit 8: 11 9mm bullets
- Exhibit 9: 6 fragments of bullets
- Exhibit 10: 1 .3006 bullet
- Exhibit 11: 1 Garrand clip
- Exhibit 12: 1 round of .30 (M1)
- Exhibit 13: 1 12 bore cartridge case.

[244] Mr Montgomery returned to the scene on the morning of 6 January 1976. He observed a considerable number of bullet strikes to the road, stating that this indicated the victims may have been fired at after they had fallen. He recovered more material exhibited as:

Exhibit 14: 4 spent 9mm cases

Exhibit 15: 2 spent .223 cartridge cases

Exhibit 16: Fragments and bullets

Exhibit 17: Fragments and bullets found in EIJ 987

[245] Mr Montgomery said that the minibus was struck approximately 60 times, the majority of which were to the driver's side although the front and rear had also been struck. In his notes he records 46-48 bullet holes to the driver's side, six to the rear and eight to the front of the vehicle. One of the offside windows, three of the nearside windows and the passenger's door window were broken. The rear offside outer tyre was deflated, and a bullet found in the wheel rim.

[246] A further spent 0.223 case from the grass band at the scene was received by Mr Montgomery on 12 January 1976 and given exhibit number 76. Further ballistics materials were recovered from the bodies and clothing of the deceased during autopsy examinations and two 9mm bullets and fragments were recovered from Alan Black and given exhibit number 89.

[247] Ultimately, the ballistics evidence gathered was *initially* held to have revealed that the following weapons were involved in the atrocity:

4 x .223 calibre weapons

2 x .30-06 calibre weapons

2 x 7.62 Nato calibre weapons

1 x .30 carbine calibre weapon

1x 9mm parabellum calibre weapon

1 x .38 special calibre weapon

[248] While a single 12 bore cartridge case was also recovered from the scene, pathology evidence to the Inquest from Professor Jack Crane confirmed that a shotgun was not implicated in the deaths. Given the absence of evidence concerning the use of a shotgun in the attack and the common use of such weapons in rural settings, and despite acknowledgment that shotguns were on occasion used by IRA terrorists, the shotgun is excluded by the Inquest. Further ballistics analysis carried out by the HET and presented to the Inquest confirms that one rather than two .30-06 M1 Garand semi-automatic rifles was used in the attack and this weapon is described as weapon 6.

[249] The Inquest heard important evidence concerning the weapons used in the attack. In particular, the Inquest was interested in learning of other attacks in which

the weapons had been used and a timeline chart was exceptionally valuable for that purpose. These findings, which omit the shotgun, adopt the weapon numbering used in the helpful analysis presented by the HET in which the weapons implicated by the Inquest are listed 1-11, omitting 10, as follows:

Weapon 1: .223 calibre Colt AR-15 (Armalite) assault rifle

Weapon 2: .223 calibre Colt AR-15 (Armalite) assault rifle

Weapon 3: .223 calibre HOWA AR180 (Armalite) assault rifle

Weapon 4: .223 calibre AR15 (Armalite) assault rifle

Weapon 5: .30 calibre M1 carbine

Weapon 6: .30-06 calibre M1 Garand semi-automatic rifle

Weapon 7: 7.62 calibre "NATO" Lee-Enfield L1A1 rifle

Weapon 8: 9mm Sten MK2 submachine gun

Weapon 9: 7.62 calibre NATO M14 rifle

Weapon 11: .38 calibre Special/357 magnum colt revolver

[250] Weapon 1 is a .223 calibre Colt AR-15 (Armalite) assault rifle with its serial number removed. Fifteen .223 cartridge cases originated from this weapon.

[251] The weapon, alongside weapons 6 and 8, was used in the IRA murders of RUC Constable David McNeice and Rifleman Michael Gibson of the Royal Green Jackets arising from an ambush on the Drumintee Road, Killeavy, County Armagh on 14 December 1974. On 30 December 1975, alongside weapons 3 and 8, it was used in the attempted murder of a farmer near Whitecross. It was further used, alongside weapons 6 and 9, in the attempted murder of security forces at Carrickbroad, Forkhill, County Armagh on 31 January 1976. The weapon, alongside weapons 6 and 8, was recovered on 25 June 1976 following the attempted murder of security forces at Mountain House, Beleek, County Armagh which resulted in the convictions of three members of the IRA, Patrick Joseph Quinn, Daniel Oliver McGuinness and Raymond Peter McCreesh.

[252] Weapon 2 is a .223 calibre Colt AR-15 (Armalite) assault rifle with its serial number removed. Seventeen .223 cartridge cases originated from this weapon.

[253] The weapon was recovered in a search at Crossmaglen on 11 April 1990. It was found to have been used in the IRA murders of Lance Corporal Philip James and Private Roy Bedford and the attempted murder of another soldier arising from an ambush at Dundalk Road, Crossmaglen, County Armagh on 16 March 1974. It was further used in attacks on Crossmaglen RUC Station on 30 March 1974 and 1 May 1974. It is likely to have been used in an attack on a military helicopter at Ballsmill, County Armagh, on 3 September 1974. The weapon was also used in an attack at Carnagh House, Keady, County Armagh on 22 October 1975. On 15 April 1976 the weapon was used to attack a military helicopter and Crossmaglen Police

Station. It was used in the attempted murder of two soldiers at Mounthill, Crossmaglen, County Armagh on 12 January 1981. On 1 December 1981 the weapon was used in the attempted murder of two RUC Constables at Dobbin Street, Armagh. On 31 December 1981 the weapon was used in the attempted murder of a soldier on the Dundalk Road, Crossmaglen, County Armagh. On 21 January 1986 it was used in the attempted murder of security forces at Lister Road, Crossmaglen, County Armagh. On 16 June 1986 it was used in the IRA murder of businessman Terence McKeever at Mullaghduff Bridge, Cullyhanna, County Armagh. On 1 September 1987 it was used in the IRA murder of Eamon Maguire at Concession Road, Cullaville, County Armagh. On 20 March 1989 the weapon was used in the IRA murders of RUC Chief Superintendent Harold Breen and Superintendent Raymond Buchanan at Edenappa Road, Jonesborough, County Armagh.

[254] Weapon 3 is a .223 calibre HOWA AR180 (Armalite) assault rifle, from which 26 .223 cartridge cases originated.

[255] This weapon was used in the attempted murder of a RUC Sergeant at Newcastle Road, Castlewellan, County Down on 20 March 1974. On 23 March 1974 it was used to attack a police patrol in Castlewellan, County Down. It was used in the attempted murder of an off duty UDR soldier in Clough, County Down, on 13 May 1974. On 20 January 1975 it was used in an attack on a UDR patrol in Whitecross, County Armagh and on 30 December 1975, alongside weapons 1 and 8, it was used in the attempted murder of a farmer near Whitecross. On 21 February 1976 the weapon, alongside weapon 9, was used by the IRA to murder Marjorie Lockington on the Newry Road, Killeen, County Armagh. It is likely to have been used in an ambush of the army at Coolderry, Crossmaglen, County Armagh on 16 January 1977 in the course of which IRA member Seamus Harvey was killed. On 12 January 1978 the weapon was used in the IRA murder of off duty UDR Corporal Cecil Grillis at Arthur Street in Newry. It was used again in an attempted murder at Crown Buildings, Bridge Street, Newry on 27 April 1978. On 5 September 1978 the weapon was used by the IRA to murder Army Cadet Force Major William McAlpine at Chapel Street in Newry for which Noel Charles Hillen was convicted. On 29 September 1978 the weapon was used by the IRA to murder Joseph Skelly at River Street, Newry, again at the hands of Noel Charles Hillen. The weapon was used in an attack on Royal Military Police at Dominic Street, Newry on 19 February 1979 and in a gun attack in Bridge Street, Newry on 21 August 1979. On 5 October 1979 the weapon was used by the IRA to murder a former UDR member, George Hawthorne, in Newry. Its final use was in an attack on security forces at Patrick Street, Newry, on 29 December 1980. The weapon was recovered in Dundalk by AGS on 29 November 1981 and Brian Tumilty was convicted of its possession.

[256] Weapon 4 is a .223 calibre AR15 (Armalite) assault rifle, from which 21 .223 cartridge cases originated.

[257] The weapon was used, alongside weapons 6 and 9, during an ambush on the army in Killeen, County Armagh, on 28 April 1976. The weapons associated with it were both used in murders carried out by the IRA. It was recovered by AGS in Omeath, County Louth on 5 May 1979. Correspondence of 25 May 1979 indicates

that it, alongside another Armalite, was found in possession of three people in a vehicle following an attack on the RUC.

[258] All .30 cartridge cases originated from weapon 5, a .30 calibre M1 carbine which carried serial number 157389.

[259] This weapon was used in a non-injury shooting incident in Carricka striken, Forkhill, County Armagh, on 31 January 1975. It was then used, alongside weapon 7, in the murders of five men at Tullyvallen Orange Hall, Newtownhamilton, County Armagh, on 1 September 1975. As with the Kingsmill deaths, responsibility for these murders was claimed by the South Armagh Republican Action Force, however the one man convicted of the murders, John Anthony McCooey, was also convicted of IRA membership and there can be no doubt that the attack was carried out by the IRA. The weapon was used in a shooting at Drummilly Bridge, County Armagh on 22 March 1976. It was then used in the IRA murder of off duty UDR Corporal Robert McConnell at Tullyvallen, County Armagh, on 5 April 1976. IRA member John Anthony McCooey was also convicted of this murder. On 1 May 1976, alongside weapon 6, the weapon was used in an attack on an army patrol in Crossmaglen, County Armagh. It was eventually recovered by AGS in Dungooley, County Louth, on 10 October 1978 although the circumstances remain unknown.

[260] All .30-06 cartridge cases originated from weapon 6, a .30-06 calibre M1 Garand semi-automatic rifle which carried the serial number 2438522.

[261] This weapon, alongside weapons 1 and 8, was used in the IRA murders of RUC Constable David McNeice and Rifleman Michael Gibson on 14 December 1974 at Drumintee Road, Killeavy, Meigh, County Armagh. On 24 March 1975 it was used, alongside weapon 7, in the IRA murder of William Elliott and the attempted murder of another at Silverbridge Post Office, Crossmaglen, County Armagh. The weapon was used in the IRA murder of John Bell, an off duty member of the UDR, at Ballymoyer, Whitecross, County Armagh on 6 November 1975. On 31 January 1976 the weapon was used alongside weapons 1 and 9 in an attack on a military helicopter at Carrickbroad, Forkhill, County Armagh. On 28 April 1976 it was used, alongside weapons 4 and 9, in an ambush of military personnel at Killeen, County Armagh. On 1 May 1976, alongside weapon 5, it was used in a further attack on military personnel at Cullyhanna Post Office, County Armagh. The weapon was recovered, alongside weapons 1 and 8, on 25 June 1976 during an attack on security force personnel at Mountain House, County Armagh, which resulted in the convictions of three members of the IRA: Patrick Joseph Quinn, Daniel Oliver McGuinness and Raymond Peter McCreesh.

[262] All 7.62 calibre Nato cartridges originated from weapon 7, a 7.62 calibre "NATO" Lee-Enfield L1A1 rifle which carried the serial number UE59A46050.

[263] On 24 March 1975 this weapon, alongside weapon 6, was used in the IRA murder of William Elliott and the attempted murder of another at Silverbridge Post Office, Crossmaglen, County Armagh. It was used, alongside weapon 5, in the IRA murders of five men at Tullyvallen Orange Hall, County Armagh, on 1 September 1975. On 22 March 1976 it was used in a shooting at Drummilly Bridge, County

Armagh. The weapon was recovered in County Louth on 10 January 1978, but no details are available as to the circumstances.

[264] All 9mm cartridge cases and bullets originated from weapon 8, a 9mm Sten MK2 submachine gun which carried the serial number 11L8929.

[265] This weapon, alongside weapon 1 and 6, was used in the IRA murders of RUC Constable David McNeice and Rifleman Michael Gibson on 14 December 1974 at Drumintee Road, Killeavy, Meigh, County Armagh. On 30 August 1975 it was used in the IRA murder of off duty UDR Corporal John James Frazer at Ballymoyer, Whitecross, County Armagh. It was used, alongside weapons 1 and 3, in an attack on a farmer on 30 December 1975. The weapon was recovered, alongside weapons 1 and 6, on 25 June 1976 during an attack on security force personnel at Mountain House, County Armagh, which resulted in the convictions of three members of the IRA: Patrick Joseph Quinn, Daniel Oliver McGuinness and Raymond Peter McCreesh. Bullets from this weapon are forensically implicated in the deaths of James McWhirter, Robert Chambers, John McConville and Robert Freeburn.

[266] Weapon 9 is a 7.62 calibre NATO M14 rifle from which a number of bullet fragments were found to have originated.

[267] The weapon was used in the IRA murders of Peter McDonald, James Duncan and Michael Sampson of the Royal Fusiliers at Drumuckaval, Crossmaglen, County Armagh on 22 November 1975. On 31 January 1976 it was used alongside weapons 1 and 6 in an attack on a military helicopter at Carrickbroad, Forkhill, County Armagh. The weapon was used, alongside weapon 3, in the IRA murder of Marjorie Lockington at Newry Road, Armagh on 21 February 1976. On 20 April 1976 it was used in a shooting incident at Kilnasaggart Bridge, Jonesborough, County Armagh. It was used, alongside weapons 4 and 6, to ambush military personnel in Killeen, County Armagh, on 28 April 1976. There is no record of the weapon being recovered.

[268] Weapon 11 is a .38 calibre Special/357 magnum colt revolver from which two bullet fragments originated. This weapon does not have an established history of use and there is no record of its recovery.

[269] In summary, weapons 1, 2, 3, 5, 6, 7, 8 and 9 were all used in other murders committed by the IRA. Weapons 1, 2, 5, 6, 7, 8 and 9 were all used in murders committed by the IRA before 5 January 1976. Weapons 2, 3, 5, and 9 were all used in murders committed by the IRA after the Kingsmill atrocity. Weapons 1, 6 and 8 were captured in the hands of convicted IRA terrorists after the Kingsmill atrocity. Weapon 4 was used in an attack alongside weapons 6 and 9 which were both IRA weapons used for murder. The single weapon with no IRA provenance is weapon 11. The overwhelming evidence before the Inquest confirms that the weapons used in the Kingsmill atrocity were the exclusive property of the IRA.

[270] Despite supposedly being on ceasefire, the IRA used nearly all the weapons in the months before and after Kingsmill. The use of each weapon immediately before and after the attack is set out below.



1	30/12/75	5/1/76	31/1/76
2	22/10/75	5/1/76	16/4/76
3	30/12/75	5/1/76	21/2/76
4		5/1/76	28/4/76
5	1/9/75	5/1/76	22/3/76
6	6/11/75	5/1/76	31/1/76
7	1/9/75	5/1/76	22/3/76
8	30/12/75	5/1/76	25/6/76
9	22/11/75	5/1/76	31/1/76
11		5/1/76	

### *Weapons Management*

[271] Witness J2, a PSNI officer, told the Inquest something of the management of weapons within the IRA saying: "Historically PIRA would have used Quartermasters to mind the weaponry ... and that would have helped to ensure almost some form of accountability around the use of weapons ... The Quartermaster would have ... retained the weapons, they would have looked after the weapons, and they would have had responsibility for the weapons and then for the issuing of the weapons." The Inquest heard that particular weapons were not thought to be allocated to specific individuals for their sole use.

[272] J2 said that after their use "the weaponry would have then at some stage come back into the possession of the Quartermaster who would have looked after the hides that they would have been kept in."

[273] The Inquest heard evidence from Sean O'Callaghan, a former head of Southern Command of the IRA, concerning the viability of a splinter group using weapons belonging to the organisation. He said: "If some IRA volunteers in South Armagh had taken weapons belonging to the IRA to carry out an unofficial action there would have been serious repercussions on those volunteers ..."

### *South Armagh Republican Action Force*

[274] No witness to the Inquest, whether they were civilian, expert, RUC or Army concluded that any organisation other than the IRA was responsible for Kingsmill. MOD2 put it succinctly when he remarked that the only republican grouping in the South Armagh area was the IRA. Charles Hamilton told the Inquest that the South Armagh Republican Action Force was a cover for the IRA because it claimed to be non-sectarian and did not want to be connected with the deaths. He had known all the men who were killed at Kingsmill and he told the Inquest that none of them had

any links to paramilitaries or security forces. He said they were killed purely because they were Protestant. Contemporaneous reports confirm that the Irish Government was of the view that the atrocity was the work of the IRA with Irish Minister for Justice, Patrick Cooney, unambiguously stating the same in the days following the attack.

[275] As to the possibility of a splinter group having carried out the attack Mr O'Callaghan commented: "I never once heard either a member of the IRA or a republican supporter ever question that it was the IRA had done Kingsmill, never ... There was never the slightest suggestion, if there had been a splinter group or a faction there would have been hell to pay, everybody would have known about it. This would have been a major internal incident within the IRA that would have had huge repercussions, nothing like that ever occurred."

[276] Witness J2 - a PSNI officer in Crime Operations Branch, whose role included countering terrorism and serious criminality, gave evidence concerning the intelligence material available to the Inquest. He observed that: "The documents as are presented to me today and other material that I have read would suggest that the activity ongoing at the time was being perpetuated by the Provisional IRA and that they were using a cover name at the time, the South Armagh Republican Action Force ... it remains clear that those that were involved in these activities were members of the Provisional IRA, had been members, were members at the time and continued to be largely members of the Provisional IRA."

### *Logistics*

[277] Forensic evidence confirmed that there were 10 weapons used to kill the men and the Inquest is satisfied that 10 terrorists were directly responsible for discharging those weapons. However, the Inquest is satisfied that at least two other terrorists were present in the vicinity as two individuals were used to contain Mr Hughes some considerable distance from the scene of the shooting. This finding is made given the distance the two terrorists followed Mr Hughes down the road and the temporal proximity of the gunfire to his being pushed over the fence. In his initial description of events to police Mr Hughes thought that 12 terrorists had been involved. In reaching the conclusion that more than 10 terrorists were involved in the atrocity the Inquest is guided by evidence from the investigating officer, James Mitchell, former IRA member Sean O'Callaghan and Stephen Morris who was the senior investigating officer of the attack for the HET. Mr Morris told the Inquest that he concluded that at least four or five others would have been involved in the attack either directly or indirectly.

[278] As to mounting an attack of this scale, Mr O'Callaghan was clear about the logistics and personnel required. He gave evidence that it would have needed scouts, drivers, getaway drivers, lookouts, houses to meet in, houses to come back to and people to take equipment. It would require a significant amount of planning.

[279] Mr Mitchell, who considered that the deaths on 4 January 1976 were a catalyst for the Kingsmill atrocity, nevertheless concluded that the attack would have required some planning and inside knowledge, saying:

“There were other people who were helping, probably clearing the road and maybe driving a scout car in front of the actual vehicle. Those sort of things were commonplace in South Armagh at that time ... I would imagine that there could have been another at least 4 people involved ... It’s something that would require some long term planning to be able to execute and have all the logistics in place.”

[280] The involvement of several people in the attack is supported by a number of pieces of intelligence received on 11 January 1976 and graded fact. One talked about how the hijacked van proceeded in convoy with another car when it crossed the border. Another report indicated that possibly five or six cars were used and that they were radio cars. In February 1976 police received intelligence that members of the IRA in Whitecross had met a few days before the attack to discuss targets.

[281] MOD3 anticipated that there would be a reprisal for the Reavey and O’Dowd murders but expected there to be a planning period. He said the speed of the reprisal surprised everyone. He said he would have been surprised if it was not planned in advance. He told the Inquest that for the IRA to have carried out an operation of some complexity would have required a fair degree of pre-planning and reconnaissance and perhaps rehearsal such that it would have taken longer than 24 hours to mount it.

[282] The evidence presented to the Inquest confirms that such a ruthlessly efficient venture could not have been organised and executed within 24 hours. Stephen Morris, senior investigating officer for the HET, referred to a spiral of incidents from 19 December 1975 but it is likely that those concerned in carrying out each and every atrocity would seek to justify their actions by choosing their own starting point. The Kingsmill attack occurred in the aftermath of and ostensibly as a response to the Reavey and O’Dowd murders, but the reality is that it had been planned long before they took place.

### *Kingsmill political attribution*

[283] The Inquest heard evidence from Henry Patterson, Professor Emeritus of Irish Politics at the University of Ulster. Professor Patterson was the author of a report to the Inquest entitled “The security and political context to the Kingsmill deaths.” It is clear from his evidence that the IRA in South Armagh was a formidable and sophisticated force.

[284] Professor Patterson told the Inquest that at the time of the Kingsmill atrocity the IRA was led by an Army Council consisting of seven or eight individuals who did not direct individual terrorist operations but who set the strategic direction of

the movement. There was no separate Northern Command, that only coming later in the decade. Separate departments dealt with intelligence, fundraising and the production and acquisition of weapons and explosives. At the relevant time the operational IRA mimicked the structure of the British Army and consisted of Battalions, Companies and Active Service Units. Professor Patterson told the Inquest that there was "a lot of local autonomy that was recognised ... it was a question of active service units exploiting the circumstances as they found." He said units had autonomy to act largely as they wished.

[285] Professor Patterson's evidence was that as a result of talks with the British Government and the granting of a number of concessions, together with the belief in some republican quarters that Britain was reappraising its policy concerning Northern Ireland, the IRA declared an indefinite ceasefire on 9 February 1975. Speculation concerning Britain's policy may also have led to an intensification of loyalist terrorism.

[286] In April 1975 the Army Council of the IRA issued new ceasefire orders allowing IRA units to open fire in so called "retaliatory and defensive actions" and while the ceasefire remained notionally in force at the time of the Kingsmill attack it was effectively meaningless by the end of 1975. Professor Patterson gave evidence that the April 1975 ceasefire order "essentially creates the space for local units to make a decision about whether or not they feel that it is necessary to operate some sort of retaliatory operation for ... some crime that loyalist terrorists had committed against the Catholic population." His analysis chimes with an intelligence report seen by the Inquest dated September 1975 and in the aftermath of the Tullyvallen murders: "At the moment there is increasing pressure from units on the ground to have the ceasefire called off. In order to appease the units concerned, they have been directed to mount attacks when desired."

[287] Ultimately, 1975 was a very violent year in Northern Ireland with 206 people killed in conflict related incidents. The Army's Director of Operations Brief for 5/6 January 1976 records that in addition to Kingsmill there had been three shooting incidents, one RUC officer killed near Toome, two RUC officers injured near Toome, two bomb explosions in Belfast and one bomb neutralised in Donaghadee. Overt actions were being taken by South Armagh IRA in the weeks and months leading to the attack. By way of example, three soldiers - Peter McDonald, James Duncan and Michael Sampson - were murdered on 22 November 1975 by South Armagh IRA. A 7.62 calibre NATO M14 rifle used at Kingsmill was also used in those murders. In his evidence to the Inquest MOD3, then a Captain with the Special Military Intelligence Unit attached to RUC Division H, commented that the IRA in South Armagh was never on ceasefire.

[288] Professor Patterson gave evidence that on 17 January 1976 Republican News published what he considered might amount to a tacit acceptance of responsibility for Kingsmill, stating that if sectarian attacks by loyalist terrorists ended "then the question of retaliation from whatever source will not arise." His research confirmed

that both the British and Irish governments believed the attack to have been by the IRA. He told the Inquest that it cannot be known whether this was a sanctioned operation by the leadership of the IRA.

[289] Regarding the reluctance of the IRA to assume responsibility Professor Patterson commented:

“... it was such a profoundly sectarian atrocity that a movement, an organisation that would claim in terms of its ideology to be non-sectarian, would find it difficult to square with it ... So it was clearly an embarrassment then and I think it continues to be an embarrassment for republicans ... the use of noms de plume by loyalists and republicans was a way of ... avoiding responsibility for targeting clearly innocent people.”

[290] The Inquest also heard evidence from Sean O’Callaghan, a former head of Southern Command of the IRA who became an informant for AGS. Mr O’Callaghan assisted the Inquest by giving practical evidence concerning IRA organisation at the time. He also gave evidence about what he had been told by IRA leadership figures concerning the atrocity. His evidence was subject to the caveat that he had not operated in South Armagh and that he had left the IRA in late 1975 and not rejoined until 1979.

[291] Concerning the leadership personnel at the time of the attack, Mr O’Callaghan said that Seamus Twomey was Chief of Staff and Brian Keenan was Quartermaster and in charge of running the bombing campaign. He said that Keenan was a cleverer and more dominant person than Twomey and that it was he who he effectively ran the IRA. He said that Keenan was an extraordinarily forceful, dogmatic, charismatic individual who wanted to fight the “war” with utter ruthlessness and determination. He described Twomey as a simpler man who was deeply sectarian. He said that Twomey “was about defeating the prods.”

[292] Mr O’Callaghan described the leadership in 1976 as being “all over the place.” He said that the Army Council rarely got together, commenting: “It was a flaky time for the IRA leadership, the ceasefire had broken on several occasions and a lot of change was occurring. There was a severe crackdown by the Irish government and most of the IRA leadership was in gaol or on the run.”

[293] Mr O’Callaghan gave evidence that the attack would not have occurred without the go ahead from OC1 and OC2. OC2 was on the Army Council. OC1 ran South Armagh and “would have done a lot of stuff on the ground by being a senior person while under the instructions and operations of OC2.” OC2 ran a separate unit but was the most influential figure in South Armagh/North Louth area. Both units were part of the South Armagh Brigade and would essentially have come under the control of OC2. Mr O’Callaghan said that no serious IRA operation could have gone ahead in the area without the say so and cooperation of those two individuals. He said that given OC2’s rank and seniority, Kingsmill essentially had permission from the IRA as an organisation.

[294] Concerning authorisation of the attack Mr O'Callaghan said that it was his belief that the Army Council did not specifically order Kingsmill but "at that time they wouldn't have to ... there was a central authorisation ... to hit back at the Prods..."

[295] Mr O'Callaghan clarified:

"... once the Army Council had agreed the policy, they would have carried it out and interpreted it perhaps as strongly as they wanted to ... Once they had got a policy on this ... they would interpret when and where they would hit back, they wouldn't have had to go back for permission for that again."

[296] Mr O'Callaghan gave evidence that Twomey had specifically told him that the IRA had authorised Kingsmill. Twomey also told Mr O'Callaghan that Kingsmill was the right thing to do. Mr O'Callaghan had heard from another source that Twomey had acknowledged having personally authorised the attack. Twomey considered Kingsmill to have been a successful operation and he and Keenan claimed they had stopped the tit for tat killings in South Armagh. His evidence is in keeping with an intelligence document seen by the Inquest and dated January 1976: "IRA agreed with Kingsmill but proposed future attacks not on workmen but security forces and prominent, wealthy Protestants."

[297] The IRA presented itself as a unified and disciplined force, modelled on the structure of a legitimate Army. The reality is that it was a proscribed terrorist organisation and as such all its communications, logistics, operations and internal disciplinary actions took place in complete secrecy. Within its ranks there would be members with different views concerning issues such as the ceasefire. Intelligence evaluations from the period indicate that there was little centralised discipline and considerable fluidity within the IRA.

[298] In a Military Headquarters Northern Ireland Intelligence Summary for the period 27 August to 3 September 1975 which concerned attribution for the IRA murders of James Albert Frazer on 30 August 1975 and Joseph Reid on 31 August 1975 and the murderous attack on Tullyvallen Orange Hall on 1 September 1975 and claimed by the South Armagh Republican Action Force: "We do not know how much control the PAC exercises over these ASU's nor how much coordination there is between them ... control and coordination from Dublin is of little consequence to the hard line republicans of the South Armagh area who have long been a law unto themselves."

[299] In the aftermath of Kingsmill correspondence went from the Special Branch Chief Superintendent to the Chief Constable 7 January 1976: "S114 is known to have been the OC of the North Louth Unit, ASU, of the PIRA in early November 1975 but on the 26 November 1975 a report was received to the effect that the GHQ Dublin had temporarily stood down the North Louth Unit, ASU, because of their involvement in robberies without authority, general misconduct and the fact that

some of the members who had been arrested had recognised the courts ... Intelligence claimed that a number of the hardliners from the Unit ASU had joined the Second Battalion Crossmaglen Unit ... While it is believed that the people primarily responsible for the murders at Whitecross were members of the Second Battalion Crossmaglen Unit, PIRA, some of the more hardline types from within the North Louth Unit, ASU, may also have been involved."

[300] A report on border activities from 1976 stated: "S114 has his own group. He's not really part of the Provos. The Provos accept him as he is too powerful to buck as everyone looks up to him. If his group do things that the public do not like then they are referred to as the South Armagh Republican Force." It states that s114's group, which included Cleary and s8, carried out the Kingsmill attack.

[301] An intelligence report of 9 February 1976 stated that there were two Battalions in South Armagh and South Down areas. The first, covering Omeath to Forkhill, was said to be undergoing a reorganisation as a result of an internal dispute and all members had been dismissed. The second, covering Drumbilla to Crossmaglen, consisted of 30/35 members. It was reported that military action had been suspended while there was an inquiry into Kingsmill. The report continued that South Armagh Republican Action Group had been formed by disenchanting IRA members in Crossmaglen, had about 15 members and would obtain weapons from IRA friends. The Inquest notes that the supposed organisation used the name "Force" and "Group" interchangeably.

### *Conclusions on political attribution*

[302] The Army Council of the IRA, in considerable disarray by January 1976, did not direct individual operations but dictated strategy. In April 1975 the orders of the Army Council allowed IRA units to take retaliatory and defensive actions. That created an exceptionally wide discretion. IRA units largely operated with autonomy. The dominant IRA figure in the Louth and South Armagh was a member of the Army Council and accordingly the actions of the IRA in that area effectively carried the authority of the Council. Kingsmill was not an operation undertaken by a rogue element, but an attack permitted by the Army Council's order and carried out by the IRA. The formation of a splinter group using IRA weapons would not have been permitted by the IRA. The IRA claimed to be non-sectarian. The use of a nom de plume was a cynical ploy to allow the IRA to carry out nakedly sectarian killings without tarnishing its brand. While undoubtedly helpful, the Inquest's conclusion concerning attribution would have been the same even without the evidence of Professor Patterson and Sean O'Callaghan. The Inquest finds the weapons attribution evidence to be unassailable and finds that to be corroborated by the evidence concerning political attribution.

### *Kingsmill and the Border*

[303] A concern raised by many of those close to the Inquest was the significance of the border in facilitating the atrocity and hampering the investigation. In an effort to understand the context the Inquest was assisted by Henry Patterson, Professor Emeritus of Irish Politics at the University of Ulster.

[304] Professor Patterson told the Inquest that in the period between 1973 and 1977 the British Government was known to be frustrated at what was considered to be the relative ease with which those involved in attacks in Northern Ireland could use the border as an escape route and the degree to which IRA attacks in Northern Ireland could be planned and carried out by active service units based in border towns and villages in the Republic of Ireland. He read from a British Army document from 1978 which claimed that the organisation had its headquarters in the Republic of Ireland, from where personnel and equipment were sourced, and training was given. In evidence he said "... The border was 250 miles long. It was crisscrossed by lots of paths, unofficial roads. It was incredibly difficult to police, even before the troubles ... And without the capacity to carry out an attack in Northern Ireland then escape to the South, to plan operations as members of active service units in various towns and villages along the border ... plan the operations, carry them out and come back to the Republic ... the existence of a border was essential to the capacity of the IRA to maintain its campaign in these areas."

[305] Professor Patterson told the Inquest that the Irish Government between 1973-77 took a hard line against the IRA so far as it was seen as a challenge to the Irish State but was reluctant to be seen to be cooperating with security authorities in Northern Ireland lest that be regarded as collaboration and exploited by political opponents. Professor Patterson said there was, for example, a refusal to extradite those wanted for terrorist offences in Northern Ireland during the relevant period. Nevertheless, he told the Inquest that he considered the political cooperation between Britain and Ireland between 1975 and 1976 to have been "pretty good." He gave evidence of an interview that he had conducted with the Irish Government's Minister for Justice at the time of Kingsmill, Patrick Cooney, in which Mr Cooney said that prior to 1973 AGS at the border was not sure what their response to the IRA should be and that he had had to make it clear that there was to be no tolerance of subversives in the jurisdiction. Professor Patterson told the Inquest that so called Baldonnel Panels on communications, exchange of information, advanced planning and detection of arms, aimed at assisting liaison between the RUC and AGS, were established after a meeting between the Irish and British Governments at Baldonnel Military Airport in September 1974. The panels would meet three or four times a year and there were bi-monthly meetings between the RUC Chief Constable and AGS Commissioner and also border superintendents, while sergeants on either side of the border were encouraged to maintain regular links. The Inquest had access to a number of volumes of joint RUC/AGS reports. Professor Patterson also told the Inquest that papers revealed an improvement in RUC/AGS liaison during the period although he said that cooperation very much depended on the personal relations between AGS and RUC officers on the ground. He commented that "... the Irish Government wanted - encouraged the Guards in all AGS stations to do what they could to assist the RUC. That was the government policy. But whether or not



that was actually implemented on the ground depends on AGS themselves.” He gave evidence that personal relationships were particularly important in South Armagh where conventional policing was impossible and the Army took responsibility for much of the security work. Professor Patterson told the Inquest that even with increased numbers at the border, AGS, an unarmed police force, was ill-equipped to deal with the upsurge in violence, lacking intelligence gathering and technical resources.

[306] Concerning the relationship between AGS and the Army, while the Inquest heard evidence from MOD2 describing it as very reasonable and asserting that AGS was helpful and supportive, that conflicts with the evidence of Charles Hamilton through whom the Army liaised with AGS. Mr Hamilton, then a constable in the RUC, was stationed at Bessbrook Police Station and worked with successive battalions of the Army from their local headquarters at Bessbrook Mill. His evidence was that AGS refused to talk to the Army and indeed would not even talk to Mr Hamilton himself if the Army was present. He described the relationship as “non-existent.” However, Mr Hamilton gave evidence that there would have been many border operations that involved AGS which would, for example, stay in place south of the border when a suspect device was being cleared in the north.

[307] Regarding the relationship between the RUC and AGS, Mr Hamilton said there was a radio communication between all the border stations and AGS. He described it as an operational tool rather than an intelligence tool. He said there would not really have been sharing of intelligence and no protocol existed for it but that the Divisional Commander would occasionally have had meetings or conferences with AGS, and it was possible intelligence exchanges could have taken place at that level.

[308] The Investigating Officer, James Mitchell, told the Inquest that relationships with AGS in Louth and Monaghan were very good. He said that AGS had a squad operating to investigate crime on the border area and he had a direct link with the head of that team which was based in Dundalk. He was, however, unaware of any written protocols concerning cooperation.

[309] The significance of personal relationships rather than formal lines of communication was demonstrated in the evidence of Samuel Mack who latterly became the Deputy Chief Inspector of the South Region, Armagh and was asked to review the Kingsmill killings in 1986. He told the Inquest that he had contacted AGS at Crime Headquarters in Dublin to seek information about the whereabouts of s91 and s32 – those named in Mr Mitchell’s final report – but that he did not receive a response. He had a contact within AGS who he would meet informally in order to share information with each other. That contact was unable to identify the whereabouts and movements of s91 or s32 but they were said to be “on the run” and living between Dundalk and Dublin. The importance of personal rapport was also remarked upon in the evidence of Stephen Morris, the senior investigating officer for the HET.

[310] The evidence considered by the Inquest leads to the conclusion that the border was exploited by terrorists. Each jurisdiction had its own police, its own military and its own laws. Normal policing was impossible in South Armagh which, in contrast to the Republic of Ireland, was in chaos due to terrorism. The Secretary of State for Northern Ireland at the time of the attack, Merlyn Rees, citing the hostility of certain members of the local population, described the area as “almost uncontrollable.” The border allowed for planning, training, organisation, weapons storage and retreat at a safe physical and legal distance from the authorities that would be faced with investigating terrorist acts in Northern Ireland. Ultimately the atrocity took place in Northern Ireland and was investigated by the police in the jurisdiction of Northern Ireland – a point made in evidence by Chief Superintendent Nyland of AGS when asked for an explanation as to the paucity of intelligence material from the Republic of Ireland. The Inquest notes that in the Daily Telegraph of 7 January 1976 Patrick Cooney, Irish Minister for Justice, is quoted as saying that the problem was essentially one for Northern Ireland though the Irish Government would do what it could to end the killings. Charles Hamilton was just one of several witnesses who pointed out the difficulty in managing a long and permeable border with some 42 crossings in the relevant area. The Inquest is confident that the Kingsmill atrocity was, at least in part, organised from the Republic of Ireland. This can be seen in the theft of the H&P Campbell van and its subsequent disposal both of which took in the Republic of Ireland. The palm print lifted from the van originated from a known IRA terrorist located south of the border. Police assessments over successive investigations, albeit based on intelligence, pointed to suspects being domiciled in the Republic of Ireland. Four of the weapons used in the attack were subsequently located in County Louth. In the aftermath of the attack there appears to have been some reluctance on the part of the Irish State to acknowledge the role of the border. Patrick Cooney, Irish Minister for Justice, is quoted in several newspapers denying that the terrorists had fled south. He maintained that the terrorists responsible were based in South Armagh. A report in the Irish Independent of 7 January 1976 suggests Mr Cooney was concerned about retaliation given the allegation from northern politicians that the gunmen had crossed the border. In the same report he is said to have stated that the RUC was satisfied that there was no involvement of terrorists from south of the border although this is not in keeping with police papers available to the Inquest. On 7 January 1976 a spokesman for Dundalk AGS stated there was no evidence to connect the H&P Campbell van to the attack.

[311] The existence of the border was also considered a difficulty by the RUC in terms of arresting suspects. Mr Mitchell told the Inquest that when intelligence was received in December 1976 concerning the identity of those involved in the atrocity it would have been of limited value as most were resident south of the border. This limitation is reflected in correspondence from Mr Mitchell’s Superintendent dated 7 January 1977. Ultimately, there was no evidence against any of the suspects identified in intelligence. While the Inquest cannot rule out the possibility that an arrested suspect may confess their involvement, that is not in keeping with experience. In the absence of any acknowledgment of individual or group

involvement so many decades after the atrocity it seems unlikely that arrests based on no evidence would have been particularly valuable.

[312] The evidence before the Inquest concerning the investigation into Kingsmill also points to cooperation between the RUC and AGS. It is likely however that informal relationships rather than formal protocol guided relations between investigators in Northern Ireland and AGS. On 10 February 1976 the Assistant Chief Constable in charge of Special Branch included in internal correspondence regarding the arrest of two suspects in Ireland: "Liaison between Special Branch in Newry and their counterparts in Dundalk was, as is usual, quite good ..." The Inquest notes that the hijacking of the H&P Campbell van was reported to the RUC by AGS and known by the RUC and Army in advance of the attack. When the suspect vehicle was discovered, officers from the RUC conducted forensic testing upon the van at AGS Headquarters in Dublin and there is evidence of communication between the RUC and AGS regarding the same. On 8 January 1976 s91 was arrested and questioned about the hijacking by AGS but nothing came of it. On 14 January 1976 s91 was rearrested and s45 arrested by AGS concerning the Kingsmill attack. The Serious Incident Log reveals RUC liaison with senior members of AGS in Dundalk on 6 January 1976. On 13 January 1976 information was passed to the RUC from AGS regarding a possible convoy of vehicles involved in the attack. On 12 January 1976 the RUC notes the potential significance of a van stolen in Castleblaney on 5 January 1976 and later found burnt out at Ballsmill, that information, on the basis of the actions sheets, originating from AGS. On 22 January 1976 AGS clarified that the van had been stolen after the attack although different information is noted in Special Branch material of 29 January 1976 again quoting AGS. The evidence available to the Inquest confirms that lines of communication were open between police in both jurisdictions.

[313] The Inquest also notes that AGS ultimately recovered and placed beyond the use of terrorists four of the weapons used in the Kingsmill attack. Information concerning these weapons, including ballistics testing, was also passed from AGS to the RUC. Weapon 7 was recovered on 10 January 1978, weapon 5 on the 10 October 1978, weapon 4 on 5 May 1979 and weapon 3 on 29 November 1981. The weapons were recovered from different locations in County Louth. Chief Superintendent Nyland told the Inquest that AGS had no records as to the retention or destruction of the weapons.

[314] The attack clearly resonated with the Government in Ireland. Some of the concern reflected in contemporaneous newspaper reports surrounded the possibility of reprisal attacks south of the border. Patrick Cooney, then Irish Minister for Justice, raised the prospect of imminent civil war in Northern Ireland and alongside AGS Commissioner Garvey went to London for talks with the Secretary of State, Merlyn Rees, on 8 January 1976. The meeting, to discuss security cooperation, was prearranged and a follow on from the Baldonnell meeting in December 1974. The deaths were discussed by the Irish Cabinet on 6 January 1976. That same day Garrett Fitzgerald, then Minister for Foreign Affairs, issued a statement saying "Every decent Irish man is appalled at this savage massacre by insane sectarian

murderers. North and South are united in revulsion against sectarian murders of Protestant [by] Catholic and Catholic by Protestant. No effort must be spared on either side of the border to push out of harm's way those involved in these senseless murders." The Taoiseach, Liam Cosgrave, said "No words can express strongly enough my condemnation of these terrible sectarian killings." Newspaper reports indicate that the atrocity led the Dublin government to increase security measures. The Daily Telegraph of 7 January 1976 reported that all traffic crossing into Southern Ireland was to be checked and parking precautions were to continue to prevent further car bombings in Dublin and towns along the border.

### Conclusions

[315] Shortly after 5.30pm on Monday 5 January 1976 a unit consisting of at least 12 members of the IRA drawn from South Armagh and North Louth stopped a minibus transporting 12 men from their work at Glenanne Mill to their homes in Bessbrook as it travelled along the Kingsmill Road. The IRA brought the minibus to a halt by pretending to be an army patrol. The men were ordered to exit the minibus and to line up against the driver's side of the vehicle. The IRA identified the single Catholic in the group, Richard Hughes, and made him run from the minibus in the direction of Bessbrook. The remaining men were brought to the ground by an initial burst of shooting whereupon they were shot again to ensure that they were dead. The terrorists then left the scene. Only Alan Black survived the attack, albeit with life changing injuries.

[316] The 10 men who were killed are:

Robert Walker who died of bullet wounds of the neck, trunk and limbs.

Joseph Lemmon who died from laceration of the brain due to gunshot wounds to the head.

Reginald Chapman who died from multiple injuries due to gunshot wounds of the trunk.

Walter Chapman who died from bullet wounds of the head, trunk and limbs.

Kenneth Worton who died from bullet wounds of the head and trunk.

James McWhirter who died from bullet wounds of the head and trunk.

Robert Chambers who died from bullet wounds of the head and trunk.

John Bryans who died from laceration of the aorta, lungs and trachea due to gunshot wounds of the chest.

Robert Freeburn who died from bullet wounds of the head, neck, trunk and limbs.

John McConville who died from laceration of the brain associated with fractures of the skull due to gunshot wounds to the head.

[317] In the aftermath of the attack many people arrived at the scene and gave assistance. Police and ambulance personnel attended. An army patrol, which had been nearby, also attended. The scene was sketched, examined by forensic specialists, photographed and mapped. A criminal investigation was mounted by police. Ultimately, no evidence was gathered capable of establishing individual criminal responsibility for the atrocity. A number of observations are made in the body of the findings as to the effectiveness of the investigation which must be seen in light of overwhelming and impossible pressure on police at the time due to terrorist activity in South Armagh. Little tangible evidence was available to police although the RUC had access to a great deal of intelligence type information. The terrorists responsible had made good their escape. There was no eye witness identification of any perpetrator and no forensic evidence to link any individual to the scene. Palm print evidence linking s54 to a suspect vehicle only came to light during the Inquest, but it was insufficient to justify criminal charges.

[318] Shortly after the attack the so called South Armagh Republican Action Force claimed responsibility for it. That was a lie. The attack was carried out by the IRA operating under the authority of the Army Council which had, in April 1975, given wide authorisation to IRA units. It was sophisticated and complex, involving multiple individuals in its planning and execution. The attack, while ostensibly in direct response to the murderous attacks on the Reavey and O'Dowd families by loyalist terrorists on the evening of 4 January 1976, was not spontaneous but had been planned well in advance. The IRA failed to engage with the Inquest. There has been no acknowledgement by the IRA of the utter wrongness of the atrocity, its impact on those bereaved or the damage caused to the entire community. Kingsmill was an overtly sectarian attack by the IRA. It was mounted because the deceased men were Protestants and for no other reason.