

# Judicial Communications Office

12 April 2024

## IN THE MATTER OF INQUESTS INTO THE DEATHS OF TEN MEN ON THE KINGSMILL ROAD, COUNTY ARMAGH ON 5 JANUARY 1976

### SUMMARY OF CORONER'S VERDICTS AND FINDINGS

His Honour Judge Sherrard, presided as Coroner over the inquests into the deaths of Robert Walker, Joseph Lemmon, Reginald Chapman, Walter Chapman, Kenneth Worton, James McWhirter, Robert Chambers, John Bryans, Robert Freeburn and John McConville who were shot and killed at Kingsmill on 5 January 1976. He delivered his findings today concluding that "Kingsmill was an overtly sectarian attack by the IRA. It was mounted because the deceased men were Protestants and for no other reason."

#### **The events of 5 January 1976 and the immediate aftermath**

In paras [6] – [119] of his findings, the Coroner set out in detail the events of 5 January 1976, information about the men who died and the impact of their deaths on those close to them, and the accounts of those who arrived at the scene in the immediate aftermath.

#### **The Investigations**

Paras [120] – [205] of the findings deal with the investigations into the deaths.

The inquest noted some caution concerning the intelligence and other information naming suspects. The Coroner said it was impossible at this remove to state with confidence what Special Branch or Military information was held by those taking forward the criminal investigation:

"This brief synopsis demonstrates the inherent weakness of intelligence material with individuals appearing and disappearing depending on the source. ... 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."

Frustration was also expressed by those close to the inquest that those suspected of involvement in the deaths had not been arrested and questioned. The Coroner said that in the absence of any evidence concerning individual attribution it was likely that arrests would have been focussed solely on obtaining confessions. He added:

"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.

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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.”

The RUC investigation recognised the importance of establishing who would usually have travelled on the minibus but was absent from work on the 5 January 1976. The inquest heard that a glaring omission concerned s104 who was said to have usually travelled on the minibus but was not present on the day in question. The inquest was satisfied that s104 is the same person as s109 who told police he was not present at work because he was at the 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 Coroner said the alleged link between s104, his absence from the minibus and his naming by an IRA source, was not acknowledged in the RUC final report and that while there was no evidence against s104, his absence from the minibus ought to have been carefully explored in light of the information arising in December 1976.

## **The H&P Campbell van**

On 5 January 1976, two employees of H&P Campbell, Building Contractors based in Newry were working outside Dundalk when their van was hijacked by a hooded man holding a handgun. The gun was held in the man’s ungloved left hand and he had a Northern Irish accent. 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. The van was spotted on three occasions later that day travelling in the direction of Crossmaglen.

By 6 January 1976 the van had assumed a central place in the investigation as it was believed to have been used to “carry the murder gang to and from the scene.” The police had intelligence information indicating that s91 had been the hijacker of the van. He was a known IRA terrorist, described 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. S91 was arrested in Dundalk 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, was released. He was arrested again by AGS on 14 January 1976 but not charged.

AGS recovered the van in Dundalk on 6 January 1976 and took it to Dublin for fingerprint examination by the RUC. A number of exhibits were taken from the van, none of which provided valuable evidence. On the morning of 31 May 2016, as the inquest was underway, it was informed that an identification had been made matching a palm print taken from the inside of the passenger side front window of the van to s54. The first mention of s54 concerning Kingsmill was in the RUC Serious Incident Log dated 14 January 1976 which indicated that he was considered to be in the IRA. S54 was then further implicated in December 1976 as a result of an intelligence document. There was 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 on other suspected terrorist activity. His name was not connected to Kingsmill by AGS at that time although they considered him to be a member of the IRA. A statement to that effect was made by the RUC for the purpose of his trial on explosives offences which took place in 1976. There was no evidence that the first RUC implication of s54’s potential involvement in Kingsmill, dated 14 January 1976, was shared with AGS.

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S54's palm prints had been 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 2 October 1975, had been sent to the RUC on 17 April 1981 but not his palm prints). The Coroner said that had the palm prints been available to the RUC in 1976 then a match could have been made in the immediate aftermath of the killings. The RUC officer who investigated Kingsmill accepted that the Irish authorities ought to have been asked for the palm print at the time of the original investigation when s54 was identified as a suspect in 1976. Also, it was apparent that AGS did not open a crime file for the H&P Campbell vehicle and had it done so, the print may have been identified in early 1976. It was only on 24 May 2016 that a fingerprint officer on behalf of the HET conducted his own search and identified a match with s54. Following the identification of s54 as the owner of the palm print, he was arrested by the PSNI on 5 August 2016. His reply to caution was: "I'm dumbfounded." He was interviewed on 5 and 6 August 2016 but refused to speak or acknowledge any question put to him by police although at one point when asked what he could tell police about the massacre he answered, "Not a thing."

## **On the runs**

On 18 May 1986 the Deputy Chief Inspector of the South Region, Armagh and was asked to review the Kingsmill killings. He contacted AGS a to seek information about the whereabouts of s91 and s32, named in the original investigating officer's final report, but they were said to be "on the run" and living between Dundalk and Dublin. There was no evidence in the file to raise grounds to obtain warrants or to commence extradition proceedings in respect of any suspects named or otherwise.

The inquest considered the circumstances of granting of "letters of comfort" to s77 and s97. Their names had been submitted to the NIO by Sinn Fein and on 20 July 2007 the NIO informed Sinn Fein that they were no longer wanted, and the letters were issued. In the course of argument, it was suggested that the "clandestine arrangement" dealing with on the runs impeded the inquest. The Coroner said that while it was 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 could not 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**

The Coroner set out his conclusions concerning the investigation in paras [199] - [205] of his findings.

"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

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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.

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.

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 they 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.

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.

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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.

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.

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**

An issue 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 Army's Commanding Officer at the time described the claim as "nonsense" and stated that the area was not out of bounds. The Coroner was satisfied that the overwhelming evidence was that the Army was present in the vicinity of the Kingsmill attack as it took place. Evidence also pointed to there having been an Army patrol on the ground within 1½ miles of where the attack was taking place.

Another rumour surrounded the purported involvement of Captain Robert Nairac. This was likely to have arisen due to the fact that the terrorist who brought the minibus to a stop had an English accent. While there was no precise record of Captain Nairac's movements on 5 January 1976 a number of documents considered by the inquest showed that his Battalion was in London and then involved in a unit relocation move from London to Pirbright in Surrey between 12 December 1975 and 7 January 1976. Captain Nairac left the UK for Kenya on 13 January 1976. The Coroner was entirely satisfied that Captain Nairac had no role whatsoever in the Kingsmill atrocity. He said:

"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 for those who carried out the attack. Rumours concerning the involvement of Captain Robert Nairac in the Kingsmill attack are entirely false."

## **Attribution**

As part of the inquest process, the Coroner considered 49 folders of sensitive and non-sensitive papers, which contain multiple references to "suspects" using "S" cipher numbers. The Coroner said that the use of the word "suspect" in this context required some caution, as the "S" numbers had been applied to a very wide range of names, including the names of persons arrested in respect of

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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. 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.”

At 10:49 hours on 6 January 1976, the Belfast Newsletter received a call from a male claiming responsibility for the attack. The caller 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.” A report in the Belfast Telegraph on 6 January 1976 quoted 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. No other individual or organisation has taken responsibility for the Kingsmill atrocity.

The inquest heard that 10 weapons were used in the attack. In paras [243] – [270], the Coroner outlined the history of each of the weapons, including other murders or attacks they had been used in, whether the weapon had been recovered and whether anyone was convicted as a result. In summary, weapons 1, 2, 3, 5, 6, 7, 8 and 9 were all used in other murders committed by the IRA. The overwhelming evidence before the inquest confirmed that the weapons used in the Kingsmill atrocity were the exclusive property of the IRA. The inquest was satisfied that 10 terrorists were directly responsible for discharging those weapons, however, it was also 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. A senior investigating officer in the HET also told the inquest that at least four or five others would also have been involved in the attack either directly or indirectly.

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 ...” He also 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.” Mr O’Callaghan was clear about the logistics

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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.

The Coroner said that the evidence presented to the inquest confirmed that such a ruthlessly efficient venture could not have been organised and executed within 24 hours: "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." The Coroner reached the following conclusion on political attribution:

"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."

## Conclusions

The Coroner's conclusions are set out in paras [315] – [318] of his findings as follows:

"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.

The 10 men who were killed were:

- 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.

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- 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.

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 eyewitness 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.

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."

## NOTES TO EDITORS

1. This summary should be read together with the findings and should not be read in isolation. Nothing said in this summary adds to or amends the findings. The full findings will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

If you have any further enquiries about this or other court related matters please contact:

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