

Neutral Citation No: [2024] NICoroner 30

Ref: [2024] NICoroner

*Judgment: approved by the court for handing down
(subject to editorial corrections and proofing prior to publication)**

Delivered: 24/10/2024

IN THE CORONERS COURT FOR NORTHERN IRELAND

**IN THE MATTER OF AN INQUEST INTO THE DEATH OF
FRANCIS BRADLEY**

FINDINGS

Mr Sharpe KC, Mr Kennedy BL and Ms Wilson BL (instructed by Sara Donnelly Clegg of the Legacy Inquest Unit “LIU”) for the Coroner;
Ms Quinlivan KC and Ms Smyth BL (instructed by Fearghal Shiels of Madden & Finucane Solicitors) appeared on behalf of the Next of Kin;
Mr McMillen KC, Ms J Ellison BL and Mr M Hayward BL (instructed by the Crown Solicitor’s Office) appeared on behalf of the Ministry of Defence;
Ms Hannigan KC, Mr McEvoy BL and Mr Rafferty BL (instructed by the Crown Solicitor’s Office) appeared on behalf of the Police Service of Northern Ireland;
Mr Horwell KC and Mr Russell KC (instructed by Matthew Garbutt of Devonshires Solicitors) appeared on behalf of former military witnesses;
Kevin Magill KC and Alana Harty BL (instructed by Bernadette Mulholland of Bernadette Mulholland Solicitors) appeared on behalf of C3

BEFORE HIS HONOUR JUDGE IRVINE KC SITTING AS CORONER

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Introduction

[1] This inquest arises out of the death of Francis Bradley which occurred on 18 February 1986 at 60 Hillhead Road, Castledawson.

[2] He was shot by members of the Special Military Unit (SMU) when he was in the process of removing a rifle from behind outhouses/sheds at the rear of the property.

[3] This inquest was heard by me, a county court judge, sitting as a coroner and without a jury, pursuant to sections 18(1) and (2) of the Coroners Act (Northern Ireland) 1959.

[4] Counsel for the Properly Interested Persons (PIPS) as outlined above, appeared in this inquest during the second module. A number were replaced between the first and second module of the inquest.

[5] The inquest was heard in modular form. It commenced on 24 April 2023 in Londonderry for 2 days, recommenced on 5 February 2024 in Coleraine, and concluded on 25 April 2024 in Newtownards.

[6] The inquest took the form of oral evidence being presented in front of me and a number of rule 17 statements being read to the court. I heard from civilian, police, military and expert witnesses.

[7] During the course of the second module I received numerous applications for anonymity and screening submitted on behalf of former military witnesses and Royal Ulster Constabulary (RUC) officers as well as one civilian witness. In respect of former military witnesses, I acceded to their evidence being given remotely through live link whilst screened from the public. I, however, refused a number of applications made to screen these witnesses from the various legal representatives.

[8] The court is conscious that when investigating a death which occurred more than 37 years ago, many relevant witnesses are now deceased and others may be too infirm to give evidence. Those who provided evidence to this inquest are faced with the challenge of recollecting events which took place many years ago. The court is cognisant of the fact that memories will have faded due to the passage of time, many witnesses have no specific recall of the events of that evening and have to be assisted by the statements and depositions they made shortly after the events had occurred. The court has thus made due allowance in receiving evidence in this inquest as to how the passage of time may have created inherent difficulties in recalling the sequence of events that took place during that evening.

Scope

[9] An inquest was held into the death of Francis Bradley in 1987. This was held in Magherafelt Courthouse and was presided over by Coroner John P Shearer. On 26 May 2010, the Attorney General for Northern Ireland, pursuant to section 14 of Coroners Act (Northern Ireland) 1959, directed that a fresh inquest be held into his death. The scope of this inquest is set out in a document dated 10 November 2023. It contains the following narrative:

“1. This inquest will examine the death of Francis Bradley which, without prejudice to any inquest findings, occurred following a shooting at 60 Hillhead Road, Castledawson on 18 February 1986.

2. The inquest will examine the death and will consider the four basic factual questions, as required by Rule 15 and Rule 22(1) of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963, concerning:

- (a) the identity of the deceased;
- (b) the place of his death;
- (c) the time of death; and
- (d) how the deceased came by his death.

3. It is not the purpose of the inquest to attribute criminal or civil liability to any individual or body.

4. In relation to the question of how the deceased came by his death, the coroner will examine the military and police operation which culminated in the death with reference in particular to the following matters:

Whether the deceased was killed by military gunfire;

The purpose of the military and/or police operation;

The planning and control of the operation on the part of the relevant authorities including the management and deployment of intelligence available to those authorities at all relevant times;

The instructions given to those involved in the military and/or police operation;

The actions of those involved in the operation, at all stages of the operation;

The state of knowledge of those involved, at all stages of the operation;

The training and experience of those involved and deployed on the ground and at command and control level;

Whether in the planning, control or conduct of the operation, those involved sanctioned or engaged in the deliberate use of lethal force that was unjustified by reference to international and/or domestic law and whether, in any event, State authorities (including the military and Royal Ulster Constabulary) tolerated the deployment of unnecessary or unreasonable force by soldiers;

The policies applicable to the use of force for both the military and police in such circumstances as at the time of the death;

The nature and degree of force used.

5. The inquest will consider specifically whether the operation was planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force and will consider whether the actual use of force was justified in the circumstances.

6. In addressing the above matters the inquest will also examine, insofar as is necessary and relevant, such evidence as exists concerning:

The circumstances in which the deceased came to be at the location of his death at the relevant time;

The actions of the deceased and any threat posed by him during the relevant period;

The actions of the soldiers involved in the planning, control and carrying out of this operation in other similar operations where the death of any civilians occurred;

The actions of the members of the RUC in the planning, control and carrying out of this operation;

Insofar as relevant to the issues outlined above, the RUC investigation.”

The law

[10] This inquest is governed by the Coroners Act (Northern Ireland) 1959 (“the 1959 Act”) and the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 as amended (“the 1963 Rules”).

[11] Rule 15 of the 1963 Rules governs the matters to which proceedings at an inquest shall be directed as follows:

“The proceedings and evidence at an inquest shall be directed solely to ascertaining the following namely:

Who the deceased was;

how, when and where the deceased came by his death;

the particulars for the time being required by the Births and Deaths Registration Order 1976 to be registered concerning the death.”

[12] Rule 16 goes on to provide that neither the coroner nor the jury shall express any opinion on questions of criminal or civil liability or on any matters other than those referred to in rule 15.

[13] Rule 22(1) provides that after hearing the evidence the coroner shall give a verdict in writing, which verdict shall, so far as such particulars have been proved, be confined to a statement of the matters specified in rule 15.

[14] In this jurisdiction we do not have the short form verdict used in England. In this jurisdiction, the coroner instead is invited to record findings in narrative format on the relevant form.

Burden and standard of proof

[15] The inquest’s task is to make findings of fact. An inquest is inquisitorial, see *An Application by Steponaviciene for Judicial Review* [2018] NIQB 90, paras [47] to [60].

There are no parties to an inquest but there are properly interested persons. Consequently, there is no formal burden of proof.

[16] The standard of proof to which I must be satisfied in order to make any finding is the civil standard on the balance of probabilities. This civil standard of proof was approved in *Re McElhone* [2021] NI Coroner 1, paras [19] to [21].

[17] I am primarily concerned with establishing how the deceased came by his death. The central “how” question to be resolved in this inquest is, who killed Francis Bradley and whether this was done on the basis of an honest belief that their life, or the lives of other soldiers were in danger at the time.

[18] In such an inquest as this involving the infliction of lethal force by state actors, there are three distinct questions arising:

- Did the person(s) opening fire have an honest and genuine belief that it was necessary to use lethal force?
- Was the force used reasonable for the purposes of defending himself or others from unlawful violence, having regard to the circumstances which he believed existed at the time?
- Was the military operation planned and controlled so as to minimise to the greatest extent possible, the need to have recourse to lethal force?

[19] I have considered the findings of Horner J in the *Inquest into the death of Patrick Pearse Jordan* [2006] NICoroner 1. He summarised the governing legal provisions on the use of force in a case involving a shooting by a police officer. At para [187], he summed up the test as follows:

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

[20] This paragraph encapsulates the essential aspects of the test that the court will have to apply in determining whether in the situation prevailing here, the resort to lethal force by the SMU was justified.

[21] The first part of the test is subjective. Did the person honestly believe that the force was necessary? The second part of the test is objective. Was the force used objectively reasonable in the circumstances subjectively believed by the person using the force?

[22] The state of mind of the person using force is a question of fact. The objective reasonableness of any belief is relevant, although primarily only as to whether the person did in fact hold the belief claimed.

[23] I am satisfied that when analysing the use of force deployed by a SMU soldier his training, experience and compliance with guidance in the use of such force will be particularly relevant. A trained and experienced soldier acting in an anti-terrorist role may be expected to exercise more control when deciding whether to use lethal force. Further, when trained sufficiently in the features of the guidance provided by the "Yellow Card" as to the circumstances when a shot may properly be fired, he should be expected to comply with that guidance.

[24] In *Re Hemsworth's Application* [2009] NIQB 33 Weatherup J stated at para [33]:

"The functions of an inquest include, as we noted in the Broderick Report in 1971, the allaying of rumour and suspicion. This relates to the 'how' question, that is by what means the deceased came by his death."

The coroner is obliged to ensure that the relevant facts are fully, fairly and fearlessly investigated as per Sir Thomas Bingham in *R v HM Coroner for North Humberside and Scunthorpe ex parte Jamieson* [1995] 1 QB 1, para 14. What is relevant is a matter within the broad discretion afforded to the coroner, bearing in mind the purpose to determine how the deceased dies and to allaying rumour and suspicion. He must ensure that the relevant facts are exposed to public scrutiny. He fails in his duty if the investigation is superficial, slipshod or perfunctory.

[25] While rule 16 of the 1963 Rules provides that the coroner shall not express any opinion on questions of civil or criminal liability, that does not prevent the inquest from finding facts which may, by inference, point very strongly to such liability. In the House of Lords in *Jordan v Lord Chancellor & Others*, [2007] UKHL 14 Lord Bingham stated at para 39:

"I also agree with the Northern Irish courts, and with Mr Blake, that nothing in the 1959 Act or the 1963 Rules prevents a jury finding facts directly relevant to the cause

of death which may point very strongly towards a conclusion that criminal liability exists or does not exist”.

[26] In *Re Bradley & Others, Application for Judicial Review* [2024] NIKB 12 Humphreys J ruled that the effect of the Supreme Court decision in *Re Dalton* [2023] UKSC 36 is that article 2 of the European Convention on Human Rights (ECHR) cannot apply to inquests where the death occurred before 2 October 1988. He provided guidance as to what, if any, real difference that might make to this inquest. He stated as follows:

“What difference does it make?”

[100] It will be a matter for individual coroners charged with the conduct of a particular inquest to determine the scope, the relevant evidence and the nature and extent of the verdict and conclusions. Whether or not article 2 applies may have an impact on some or all of these questions. However, it may be observed that the difference might not be all that pronounced.”

[27] Humphreys J in concluding that the difference might not be all that pronounced then referred to a number of authorities and observed that;

“[104] Lord Brown commented in *McCaughey*:

‘it may be doubted whether in reality there is all that much difference between an article 2 compliant inquest (a *Middleton* inquest see *R (Middleton) v West Somerset Coroner* [2004] 2 AC 182) and one supposedly not (a *Jamieson* inquest: *R v Coroner for North Humberside and Scunthorpe, ex p Jamieson* [1995] QB 1).’...

[108] Having noted the restrictions, the coronial jurisprudence in recent times has recognised that the coroner is nonetheless under a duty ‘to ensure that the relevant facts are fully, fairly and fearlessly investigated.’ (per Sir Thomas Bingham MR in *Jamieson*). The same judge said in *Jordan v Lord Chancellor* [2007] UKHL 14 that, whilst a verdict of unlawful killing is not open in Northern Ireland, an inquest may find facts which may point very strongly to the existence of criminal liability.”

[28] In *Re Bradley & Others, Application for Judicial Review* [2024] NIKB 12 Humphreys J further commented at para [109] that:

“Given the potential scope for such findings, and the need for a full factfinding exercise, it may be therefore in any given case that the application or otherwise of article 2 is a point of academic interest only, making little practical difference to the running or the outcome of the inquest.”

Article 2 of the ECHR is not applicable to this inquest. In this inquest I have proceeded to deliver my findings in accordance with my duty to ensure that all relevant facts are fully, fairly and fearlessly investigated and accordingly, my findings and verdict will reflect this. My findings and verdict will reflect the issues as raised in the Scope document.

Background events

[29] In order to fully understand the events leading up to the death of Francis Bradley, it is relevant for the inquest to consider the threat posed by the Provisional Irish Republican Army (PIRA) at that particular time to members of the security forces.

[30] Former Detective Inspector (DI) Noel Nicholl, who investigated the shooting of the deceased, informed the inquest:

“There was a lot going on in the area. The active service unit of PIRA in sort of Castledawson/Toomebridge/Hillhead area was extremely active. The guns were involved in shooting of mainly police, army and UDR.” (with reference to the two rifles found at scene at 60 Hillhead Road).

[31] In his police investigation file which was submitted to the Director of Public Prosecutions (DPP), he reported that over the past year there had been an increase in terrorist activity in the Castledawson area. He referred specifically to the shooting on 14 April 1985 of a police officer and a civilian as they were driving up a laneway to the officer’s home. On 9 December 1985, Castledawson Police Station came under sustained gunfire in which 57 rounds were fired. In the latter part of January 1986, the area around Castledawson/Toome was “put out of bounds” for local police due to the increase in terrorist activity.

[32] Francis Bradley had been arrested on three occasions:

1. 17 April 1985 under section 11 of the Northern Ireland (Emergency Provisions) Act 1978 following a shooting. He was released without charge on 17 April 1985.

2. 21 October 1985 under section 11 of the Northern Ireland (Emergency Provisions) Act 1978. He was released without charge on 23 October 1985.
3. 9 December 1985 under section 12 of the Prevention of Terrorism (Temporary Provisions) Act 1984 after the shooting at Castledawson Police Station. Nicholl describes Bradley as an important member of the Newbridge unit of PIRA. He was released without charge on 10 December 1985.

Nicholl also described Bradley as an important member of the Newbridge unit of PIRA.

[33] On 18 February 1986 a number of soldiers from the SMU and police officers from Headquarters Mobile Support Unit (HMSU) Belfast were operating in the Toome/Bellaghy/Castledawson area. Around 9.30pm military personnel attached to SMU positioned themselves at the rear of 60 Hillhead Road behind a hedge. There was a gap in the hedge which permitted some, but not all of them, to view the rear of the property. Just before 10.00pm a vehicle was seen arriving at the property which contained the deceased and Bernard McLarnon.

[34] The deceased removed a weapon from behind the outbuildings and according to the soldiers was then called upon to halt. A number of shots were then fired, and Francis Bradley was hit a number of times by the gunfire.

[35] Two guns were found in very close proximity to the deceased:

1. 223 (Inch) Colt Ar-15 (Armalite) rifle which had been used on 25 previous occasions in relation to murders and attempted murders (described as a trophy gun).
2. 223 (Inch) FNC rifle - used once at the attack of Castledawson Police Station.

[36] Brian Bradley, the deceased's brother, gave a "pen portrait" of his brother. At a later stage of the inquest, he provided a statement and oral evidence. He recalled that in the couple of years before his death, Francis had been arrested on a few occasions. He believed it was on three occasions. He was arrested from the family home at 39 Derrygarve Park, Castledawson. He recalls one incident in particular when, according to him, he and his family were sleeping, and the police aggressively entered the family home. They used explicit language and were carrying rifles. He said that the police "wrecked" the family home and the officer who seemed to be in charge had a scar on his face.

[37] He recalls that after Francis was released from police custody, he was very nervous. On one occasion he went to Father Denis Faul and told him that the RUC had asked him to become an informer, but Francis refused. Fr Faul wrote a letter to the Irish News about the treatment that Francis was receiving. Francis said the police had told him that he would be dead before he was 21 years old.

[38] A copy of the complaint made by Francis Bradley to Fr Faul in the terms above was made on 24 October 1985, some four months before he was shot dead on 18 February 1986.

[39] Eilish McLaughlin told me that she had been Francis's girlfriend for about 11 months. She did not know if he was a member of PIRA. She remembered him being arrested on suspicion of shooting up Castledawson Police Station. She recalls two specific occasions when she was with Francis that he came to police attention. One was when they were at a chip shop in Toome and the second was at a Chinese restaurant in Magherafelt. On this evening, two police cars followed their car. Francis stopped the car and police then approached the car which was searched and then they were allowed to go on. She recalls Francis being arrested and stopped all the time. She said that Francis's car was well known to the police as it was a yellow car. She was aware he had been arrested two or three times. Francis also told her that police had tried to turn him into a police informer. She referred to Francis as a 'nervous wreck' and he was afraid of being attacked. The last time she saw Francis was on the Sunday before he was killed. On the evening that Francis was killed, she recalls there were helicopters in the area. It was also the case that police were stopping people in Toome.

[40] Annette McVey told the inquest that she had known Francis Bradley for two or three years before his death. She was not aware if he had been in the PIRA. She was vaguely aware of Francis being arrested a short while before his death. She recalls being at O'Neill's Hotel in Toomebridge when police surrounded Francis's yellow Ford Escort. Francis then went into the chip shop and police began to question Eilish. Annette was driven off in a car by Kevin Magee and it was stopped by police at a police checkpoint. The police were looking for Francis Bradley and when they discovered he was not in the car they let the vehicle proceed on. She indicated that Francis told her he was being harassed by the police. She recalls Francis calling to her family home one night just before Christmas 1985. That night whilst in her scullery she noticed someone at the back window. She believes her house was being watched and that she was being listened to.

[41] Francis told her about an occasion when he was too frightened to get out of his car to lift fallen trees/branches blocking the road in case he was shot. Instead, Francis drove over the branches and damaged his car.

[42] On the night that Francis was shot, she recalls that the lights in Toome stopped working, there was a heavy police presence with checkpoints leading up to the Elk Bar and there was a helicopter in the area.

[43] Francis told her that police had told him he would not see 21 years old. He told her he was frightened and scared for his life.

[44] The statement of P12 was read to the inquest under rule 17. He indicated that he had joined the part-time police in 1984. In April 1985, he and a friend were victims of an attempted murder on the laneway leading to his house. He received gunshot wounds to his head and shoulder. His friend received gunshot wounds to his back and arm as a result of which he is paralysed. He did not know the perpetrators of the attack. He was not officially made aware that anyone was arrested or interviewed until the coroner's investigator informed him and showed him statements held in a library in Armagh. He is unable to recall when he first became aware of any suspicion that Francis Bradley had been involved in the shooting. Having read Francis Bradley's statement held in the library in Armagh, he denies ever threatening him or asking anyone in the police to get him. He never had any dealings with Francis Bradley whilst serving in the police and he did not know whether he had any associations with any republican groups. He also was not aware that police in the area were frequently stopping him.

[45] This background evidence of alleged police harassment cannot now at this remove be dealt with adequately by the inquest. The only evidence before the inquest from the police perspective is that relating to P12 as outlined above. It is a matter of fact that the deceased gave a statement to Fr Faul in October 1985, following his release from custody in which he was alleging ill treatment. Police officers who have been accused of such actions are now not traceable and therefore unable to give their accounts to this inquest of their interaction with Francis Bradley. These allegations relate to events occurring some 39 years ago and what individuals may have been told are hearsay accounts.

[46] It is clear from the civilian witnesses that Francis Bradley was stopped on a number of occasions by police prior to his death. Given the fact that he was suspected of being a member of PIRA, there was provision made under the appropriate terrorist legislation, applicable at the time for stop and search to take place.

Evidence of civilian witnesses

[47] The inquest heard from a number of civilian witnesses dealing with the events of 18 February 1986.

[48] Lawrence Walls gave evidence that in 1986 he no longer lived at 60 Hillhead Road. The house was occupied by his elderly mother and his two brothers, Colm and Kevin. He did not know Francis Bradley to talk to but just knew him to see. He did not hear any shooting or see any flares that night. He lived a short distance from his mother. He recalls driving past the house and seeing two persons lying on the ground. He now knows that one of them was his brother Colm. The second man was Barney McLarnon. He did not see his brother for a couple of days because he had been arrested.

[49] Elizabeth Ward, in her deposition in 1987, indicated that on 18 February 1986 at approximately 9.50pm she heard a burst of gunfire followed by another burst. When she opened her front door, she saw a car reversing in the direction of Toomebridge/Castledawson Road. At this point there was a helicopter hovering overhead between her house and Colm Walls' house. The following day when she was walking, she noticed a cannister lying on the road which she lifted and brought home. It remained there until 1 March. In a statement to Fr McNally, she stated that she heard no more than two bursts of shooting which seemed to be spread over about two minutes.

[50] Kevin Kelly gave evidence that in February 1986 he was employed as a chef at McVey's café at 62 Hillhead Road, which was owned by Terry and Margaret McVey. For about two weeks prior to 18 February 1986 there was an unusual presence of persons in cars in the area. He was aware of a local person complaining that in the week before Francis Bradley was shot, he had tripped over an undercover soldier who was lying in undergrowth late at night. On 18 February after completing his work he returned back to the café around 6.30pm and observed four police cars parked in a laneway, which he thought was unusual. He was standing at the back door of the café when he saw a flare going up and heard gunfire and shooting coming from next door. There was another burst of gunfire. Mr McVey unlocked the café door to see what was happening outside. The next thing he was put to the ground by a soldier, had his wrists tied and plastic bags placed on his hands. A soldier was shouting at Mr McVey's two sons and Mr Kelly was told to face the wall inside the house. The police held them all outside until Criminal Investigation Department (CID) arrived, and they then were all permitted to go into the house.

[51] Dermot Keenan gave evidence to the inquest that on 18 February 1986 he was at home at 53A Hillhead Road, which is on the opposite side of the road of 60 Hillhead Road. He was in a room at the back of his house when shooting started. The shooting was coming from the back of the Walls' house. Flares lit up the sky when the shooting started again. He was unable to say how many shots were fired. He then went to his house and phoned 999 and saw a helicopter flying across. He then drove to check on his mother and upon his return, local police and army had started to arrive outside the Walls' house. The following day he found tubular casings near The Cut. The army stopped his van, searched it and took the tubular casings he had found.

[52] In 1986, he made a statement to Liam McNally, solicitor, indicating that all together there were four bursts of gunfire over a period of two to three minutes. He stated that the shooting was the thing that drew his attention to what was going on around his home. When he went to the front door the flares were still in the sky. The shooting was still going on when the flares were in the sky. The flares went on over a period of time. The shooting was not continuous.

[53] The deposition of Terence McVey was read into evidence under rule 17. He stated that at 9.50pm the gun fire commenced. He heard about four bursts of

automatic fire. Kevin Kelly came into the house, and he told him to lay down. After the shooting stopped, he observed a man crouching at the door of the shop. He also provided a statement to Fr James McNally in which he indicated that from approximately 8.30pm a blue Volvo hatchback had been sitting in his yard until shortly before the shooting. The occupants of the car were a man and woman.

[54] When the shooting ended, he was grabbed by an armed man in civilian clothing. He was grabbed by the hair and pulled out of his house. A helicopter was at the scene within a minute. His son was spread eagled against a wall while he was made to lie on the ground. One man put a gun to his head and said, "make my day". He was made to lay with his palms facing upwards and he reports hearing a gun clicking, whilst those behind him dared him to move. He lay on the ground for approximately two hours. After 15 to 20 minutes the RUC arrived. The RUC were also clicking the triggers of their guns against his head. A Special Air Service (SAS) man stood on his wrists. Eventually he was permitted to lie over the bonnet of a car. The CID eventually arrived and ordered the handcuffs to be taken off. The following day the CID took a statement but only up as far as the time that he opened the door. As a result of the incident, he received a number of injuries.

[55] He had previously noticed cars following him to different places and coming from Magherafelt. One morning a police car followed him to Castledawson. This was a fortnight before the shooting. They parked at the side of the road near his house and sat watching his car for 10 to 15 minutes. Activity had been noticed up towards Anahorish School for approximately a fortnight before the shooting and there had been covert observation at night.

[56] Thomas Doherty provided a statement which was read under rule 17. He was watching television when around 10.00pm he heard a burst of gunfire. As he ran to his front door there was another burst of gunfire, and he observed some activity from the direction of McVey's shop. He heard possibly another burst of gunfire as he ran upstairs. He estimated that two minutes could have elapsed between the first to the last gunfire. He saw flares going up into the sky and after no more than five minutes, police cars started to arrive from all directions.

[57] Richard Barton provided a statement which was read under rule 17. He had returned from Belfast at approximately 9.45pm. He went to his shed when he heard a short burst of gunfire followed by one or two longer bursts coming from behind McVey's. He returned to his house, and a few seconds later he heard up to three bursts of gunfire. Almost simultaneously a helicopter was heard overhead, and flares were dropping which lit up the whole area. After the shooting stopped, the first thing he saw was a police car pulled across the road with the emergency flashers on. He saw two men in blue anoraks wearing jeans and carrying machine guns coming out from the side of the shop and then disappear. Although he heard the shooting very clearly, it was impossible for him to say how many shots were fired overall.

[58] Richard Barton (Junior) provided a statement which was read under rule 17. He lived at 63 Hillhead Road. His house was beside McVey's café and about 50 yards from where the shooting took place. At approximately 9.55pm he heard sporadic bursts of gunfire which lasted about a minute. After about one and a half or two minutes he went to the front door, flares had been set off and there was further gunfire. This lasted 10 to 15 seconds and there were five or six bursts of gunfire. After the shooting ended, he went outside and saw four men dressed in plain clothes at the front of the shop. They were wearing anoraks, jeans and had white armbands on their right arms. Three men were running about carrying machine guns. Two policemen were standing on the road trying to stop traffic. Approximately five minutes after the shooting the men in plain clothes got into a Volvo 343, an Audi 100 and a light blue Cavalier. There could have been up to eight men in this group including men in military gear who were wearing balaclavas. They headed in the direction of Toomebridge. He saw Colm Walls and Barney McLarnon lying in front of Walls' house.

[59] John McCann provided a statement which was read under rule 17. He stated that he returned home at approximately 9.00pm. He noticed a strange car going up the lane towards his house containing four men. At about 9.30pm, a man he did not recognise walked past the side of his house and down a lane which was rarely used. There was a helicopter overhead at the time. His sister-in-law, Adeline McCann rang him at about 10.00pm to tell him there had been some shooting. He walked up and saw flares in the area of Colm Walls' house. Lawrence Walls arrived, and they sat in McCann's car watching soldiers going in and out of the Walls' house. They observed two men lying on the ground outside the house and Lawrence identified one of these men as his brother Colm Walls.

[60] Sarah Kealey provided a statement which was read under rule 17. She lived on the Blackpark Road, Toombridge. She heard shooting, but it was not very distinct and there were at least two bursts of gunfire. The shooting was spread over one or two minutes. She saw flares along the old railway line.

Training and experience of military and police:

Planning and control police presence at scene after shooting

[61] The inquest heard that that the operation carried out that evening on behalf of the military and RUC was a Tactical Co-Ordinating Group (TCG) tasked operation.

[62] The structure of the RUC Special Branch and the associated TCG in February 1986 was not specifically addressed in evidence to the inquest by an officer in a command position, either in the RUC Special Branch or in TCG South during this period. The statements of P10 and P11 speak to general matters within their knowledge about TCG and the RUC Special Branch. Neither of these witnesses were involved with TCG at the relevant time and thus cannot provide specifics of the TCG tasking at the time to the SMU.

[63] The inability to identify a witness is attributable to the passage of time, the lack of contemporaneous records and the deaths of a number of senior officers.

[64] P10 in his statement, received by way of rule 17, is however able to assert that the operation in place at the time of the deceased's death likely originated from TCG South.

[65] P8, whose evidence was received by way of rule 17, gave evidence to the effect that in 1986 he was a member of HMSU based in Cookstown Police Station. He was part of D Operations HMSU as opposed to E Department HMSU, who were based in Belfast, and this unit carried out operations on behalf of Special Branch. His notebook details that he was tasked to attend a shooting at Hillhead Road, Toome, returning back to Cookstown Station at 02.00 hours on 19 February 1986. He was sent to the scene to assist with scene management. He has no recall of the scene. He did not attend the debrief relating to the management of the scene.

[66] John Magee gave evidence that he was a scenes of crime officer (SOCO) covering the southern region of the province. He was called to assist with the removal of the vehicle (the Toyota car that Bernard McLarnon and Francis Bradley arrived in at 60 Hillhead Road). He did not recall military being present upon his arrival. Police were present and he assumes that cordons were set up. He recalls seeing the body of a male with a rifle beside him. The deceased was wearing gloves. There was not a lot of light at the back of the house. The night was dark and dry. The only people he can definitely remember are Constable Leslie Cairns and Brian Thompson, the scientist. He does not remember Royal Military Police (RMP) being present or senior CID officers being present. He does not recall seizing weapons from the military, and he does not know why they did not give him the ammunition immediately. In his 1986 statement he states that another rifle was a short distance away from the body of the deceased, lying on the ground close to the wall of the outhouse. He was present when the body was removed by the undertaker and the two weapons at the scene were removed by Mr Thompson from Northern Ireland Forensic Science Laboratory.

[67] On 19 February 1986 at 8.05pm he was handed the following items by Soldier H at Gough Barracks: rifle A JM1, rifle B JM2, magazine for rifle A, JM3 and magazine for rifle B, JM4. On 20 February 1986 at 2.50pm he was handed by Soldier H ammunition from the magazine of rifle A, 29 rounds, JM6 and ammunition from the magazine of rifle B, and ten rounds, JM7.

[68] The witness confirmed that he was really there to assist Mr Thompson, who was in charge.

[69] He stated that if the deceased had parked his car on the Black Park Road and the police had been told, the vehicle would have been seized and forensically examined had a weapon been removed from it. He confirmed that the military

would not hand over their weapons at the scene but when they were taken somewhere to be interviewed.

[70] Johnson Lesley Cairns told the inquest that he was a SOCO. He has a memory that he went to the back of the property and saw the deceased. The lighting was poor. He cannot remember seeing rifles but does recall being over a field or around an old railway line and seeing casings. He believes he marked these cases out and left them in situ. He does not remember seeing any military at the scene. He accompanied the body when it left the scene. He believes he returned the following morning and searches were carried out along an old railway line, garden and around the sheds. He remembers bullet strike marks on the walls of the property. He has a vague memory of attending a post-mortem in Magherafelt hospital performed by Dr Carson.

[71] In his deposition he confirms that he arrived at 60 Hillhead Road at 10.55pm. The body was lying with the legs extended slightly apart and with what appeared to be rubber gloves on each hand. Alongside the left leg, there was a rifle with magazine in place and stock folded. A short distance along the rear wall of the building there was another rifle with a magazine in place. He assisted in the removal of the body and returned back to the scene at 8.15am on 19 February 1986. A further search of the field at the rear of the outbuilding uncovered five empty cases JLC2 lying in the rear of the building. He made his way to the rear of No 60 Hillhead Road where he recovered a number of badly damaged bullet heads, JLC3, from the wall to the left of the rear door. A bullet had gone through a rear downstairs window.

[72] P6 gave evidence that he was stationed at Castlereagh Police Station as a member of HMSU attached to E Department. He had little memory of the incident on 18 February 1986, the days leading up to it or of any operation. His unit would normally be briefed on ongoing operations by the senior police officer, with duty and roles allocated accordingly. He could not recall ever attending a briefing on any operation that was provided by the military. The only person he can recall being present in his patrol on 18 February was Constable P3. The deceased was not known to him.

[73] He assumes that he was sitting in a location near the incident as he arrived within five minutes. There were military present at the scene upon his arrival, but he was not briefed at the scene by any military. He took over guarding two prisoners at the scene. He recalls that it was a cold, dark night and there was very little lighting around the house.

[74] He recalls that CID and other police arrived and took over his duty. He did not see the body and did not approach it at any time. After he left the scene, he was present for a debrief but does not recall this debrief.

[75] In his police statement made in February 1986 he records that at 10.02pm he received a message to go to a farmhouse just above the Elk Bar on the Hillhead

Road. He arrived at the location at 10.07pm. He accompanied P3 to the front of the house where he assisted him in guarding Bernard McLarnon and Colm Walls.

[76] He confirmed that HMSU performed an anti-terrorist role in 1986, which consisted of providing cover for ongoing operations. He confirmed it was a specialist unit within the RUC and were within Special Branch. Members of HMSU had much more extensive firearms training than a normal RUC officer. In terms of operations this would have involved attending incidents where there was an expectation that somebody might be armed. The unit was also trained in conducting hard stops or hard arrests where the suspect was believed to be armed.

[77] He was unable to recall if there was a specific or planned operation that evening of 18 February 1986 but assumed he was there for a purpose. He assumes that before he went out that evening, he had received a briefing and given that there was a fatal shooting there would have been a debriefing. He would have been debriefed by his own superiors.

[78] He confirmed that, although this operation involved the military, HMSU was not simply a support role for the military. HMSU officers were briefed on a "need to know basis". He recalled that this was an ongoing operation. The HMSU on this occasion were acting in support of the military. He had no recollection of receiving a briefing at a military location. The TCG would have been responsible for the tasking and the communication would have come through the police network rather than the military. There was no information communicated that Francis Bradley had been seen removing a weapon from a car. He has no recollection of police being asked to assist in an arrest operation.

[79] P3 informed the inquest that he was in HMSU attached to Belfast Regional Headquarters. He didn't recall any briefing about this operation or any individual prior to 18 February 1986. He has a memory of attending a military establishment for the purposes of receiving a briefing but cannot be certain it was in relation to this incident. This would have been a briefing given by police and not the military. He was told that there was an operation and was to respond to any incident as required.

[80] He was deployed in a car with P2 and one other. He assumed a lie up position on a side road. It was approximately five minutes from the Hillhead Road. He was in this position possibly for a couple of hours. He observed a flare and received radio instructions to proceed to the house on the Hillhead Road. The instructions likely came from TCG.

[81] On arrival he was tasked to go to two men who were lying face down. He remained with the two men for around 90 minutes. He noticed the deceased's body and saw a long firearm lying close to the body. Military personnel departed the scene before local police arrived. He believed they may have left by helicopter but could not be certain.

[82] He cannot recall a debrief, however stated it would have been usual to have a debrief after such an incident.

[83] In his statement in 1986 he recorded that he was a member of a two-vehicle patrol operating in the Castledawson area. At 10.02pm they received a message to go to a farmhouse on Hillhead Road. He arrived at the location at 10.07pm. P6 covered two men whilst P3 searched them. These two men were Colm Walls and Bernard McLarnon.

[84] He said that the role in HMSU was an anti-terrorist role. He confirmed that HMSU was a specialist unit within the RUC. He operated in uniform and conducted anti-terrorist operations. Some of the operations were in support of the army, but others were controlled and run by HMSU having been deployed by TCG. As regards firearms training, HMSU would have been regarded as specialists. He thought that it could vary as to whether the military or TCG would brief him. He had no knowledge at the time as to what they would encounter. He didn't have direct communication with the military. He was in a car with P2 and P6.

[85] He confirmed that Sergeant McCauley would have spoken to the military. He was unaware as to why the soldiers' weapons were not removed at the scene. On that evening the role of HMSU was as a Quick Reaction Force (QRF) and that was the role of the two police vehicles. It was clear that there was an operation on at that time. The role was attending the incident and dealing with what had happened.

[86] P1 informed the inquest that on 18 February 1986 he was attached to HMSU, Belfast Regional Headquarters at Castlereagh. He was part of E Department under the supervision of the Head of Special Branch. HMSU was trained for more specialised anti-terrorism duties. The main duties were performing a QRF for specialist military units and also police surveillance teams. His duties involved being present when an operation was in place and HMSU could be required to perform stops of vehicles and people. HMSU also attended scenes of incidents and performed a cordon role until local police attended. HMSU could also perform arrests if someone had been detained.

[87] He does not have a strong memory of the period prior to 18 February 1986 but believes that other crews in HMSU were tasked before 18 February to work in the area of the incident alongside SMU.

[88] He does not remember a briefing by HMSU on 18 February other than a HMSU Inspector telling his unit to attend the SMU base. He recalls attending a military base but does not remember receiving a briefing about this operation. He accepts there must have been a briefing before deploying.

[89] He believes they were deployed in two vehicles. His vehicle had Sergeant McCauley as well as P4. They went to the Castledawson area and maintained a covert position by lying up. He recalls seeing a flare go up into the air and this was

the sign to go to the property. He remembers contact by radio prior to attending the incident but cannot recall the information received or who it was from. He recalls his Sergeant tasking him to take over from the SMU officer who was standing over a detained person. This person was Mr McVey.

[90] He cannot recall if he went back to the military base or Castlereagh. There may have been a debrief led by a senior officer, but it could have been Sergeant McCauley.

[91] He made a statement in 1986 indicating that at 10.02pm he received a message to go to a farmhouse and arrived at 10.07pm. On arrival he accompanied Sergeant McCauley to the rear of 62 Hillhead Road where he saw Sergeant McCauley speaking to a soldier and the man lying on the ground. P1 guarded Mr McVey until approximately 11.45pm when CID personnel arrived and spoke to him.

[92] In terms of training, he was trained in the use of firearms for an anti-terrorist role which was an enhanced role, over and above that of ordinary police officers. He was briefed on a "need to know" basis and basically that it was an operation in the south region which required two crews. He remained in the covert position for between two to three hours.

[93] He confirmed that the SMU would use flares whenever they were forced into a reaction for some reason. It was "an aid for us because it meant that we knew that we had to get quickly to the scene."

[94] He confirmed that HMSU was a unit that reacted to intelligence that TCG had and carried out intelligence led anti-terrorist operations, many of which would be conducted without SMU. Many of the operations would result in the arrest of terrorists. On this occasion HMSU were responding to SMU when they had an interaction with terrorists.

[95] He denied clicking the trigger of his gun against Mr McVey's head or that McVey was assaulted by the military.

[96] P9 gave evidence that he attended the scene. At the time he was in CID stationed in Magherafelt. He attended the scene with DI Noel Nicholl. He did not receive any briefing at the scene. He vaguely remembers persons being present at the scene but cannot say who they were. He does not recall the weather that night or the lighting in the area of the house. He recalls that the deceased was wearing gloves. He believes that DS Jackson, who was in charge of South Region CID may have attended the scene. He does not recall military present when he attended. He remembers going to the mortuary. He does not recall re-interviewing Mrs Walls.

[97] In his statement made in 1986 he recalled that he accompanied DI Nicholl and arrived at the scene at 11.00pm. He observed the body of a male wearing rubber gloves lying a short distance out from the rear wall of the outhouse with a rifle close

to the body and between it and the outhouse. A second rifle was lying a short distance away. He accompanied DI Nicholl to 62 Hillhead Road where he saw Terence McVey. He and DI Nicholl interviewed Mr McVey and he was then released.

[98] He confirmed that he was present when Josephine Walls and her son Kevin were interviewed by DI Nicholl. Mrs Walls stated she had been watching television when she saw the lights of a vehicle appear in beside her home. She then heard a knock to front door sometime after the vehicle arrived. Her son Colm then went outside, and she heard shooting. The soldiers arrived at the rear door a short time after.

[99] On 20 February 1986 he spoke again to Mrs Walls. She informed him that Colm had come down the stairs after the shooting occurred. She remembered that it was after this that she heard the knock on the front door. She told him that she was confused but was now certain that the door was knocked following the shooting. She stated that there had been no arrangements for Bernard McLarnon to visit the house and he was not a regular caller.

[100] He confirmed that a statement was not recorded from Mrs Walls on the evening in question. No statement was taken from her on 20 February 1986. What Mrs Walls stated on two occasions was only reduced to writing four months later.

[101] Alan Anderson told the inquest that on 18 February 1986 he held rank of Constable and was attached to Magherafelt Police Station. He attended at the scene of the shooting. He believes that he was engaged in scene log duties and of stopping traffic at the scene. In keeping the scene log, his role would have been to assist with preserving the scene which meant recording all events of people or items entering or leaving the scene. He recorded relevant events in his notebook.

[102] In his statement he indicated that he took over the scene log at 1.00am on 19 February 1986. He made a number of entries in his notebook of persons entering and leaving the scene. He took over from P7 and left the scene at 8.40am.

[103] At 1.44am he recorded: "weapons taken from scene". The person who took the weapons is not recorded. He said it was probably the SOCO.

[104] P2 gave the following evidence to the inquest. He was attached to HMSU based at Castlereagh Police Station. HMSU units attached to E Department were different from ordinary HMSU or DMSU. They received some additional firearms training and carried different weapons. Some of the tasks which HMSU would have carried out included arresting people or intercepting weapons, ammunition and bombs.

[105] He does not recall being briefed on 18 February 1986. He has a recollection of performing duties in the general area of Draperstown for some period prior to 18

February. He was told that a military operation was ongoing, and they were tasked to be on general patrol in the area to assist. This was to carry out arrests or vehicle check points. He has no memory of the military operation. HMSU was briefed with information that it “needed to know”. He does not recall being briefed with any sensitive information, information about the deceased, nor the address at which the incident occurred prior to the incident occurring.

[106] On 18 February 1986, he was in the Randalstown area, close to M2 motorway. He was in a vehicle with HMSU officers but cannot remember who they were. There was another HMSU vehicle on patrol. He does not know where it was.

[107] He believes he received a radio message about the incident, and they were given an address to travel to. Although people were present at the scene, he has no specific memory of whether they were military or civilians. He travelled to the scene after the Sergeant’s vehicle had arrived. He was tasked to assist in a cordon role. It is likely that he would have taped off the scene. He was in control of the scene log for a period of time. He did not; see the deceased, enter the scene, nor did he see any weapons.

[108] Once he was relieved from his duties he travelled back to Castlereagh and was debriefed. He cannot remember who led the debrief.

[109] He confirmed that he responded to the radio message and was at the scene within about five minutes.

[110] P4 told the inquest that on 18 February 1986 he was attached to HMSU Belfast. HMSU was tasked by TCG in Belfast. His instructions came from an Inspector, Sergeant or Senior Constable. His Sergeant was Sergeant McCauley.

[111] What role HMSU would have at any incident depended entirely on the circumstances. HMSU was a specialist unit and was capable of acting as a QRF to the military, arresting or pursuing terrorists and securing scenes. HMSU members were not briefed on matters of sensitive information unless it was necessary to know that information. The “need to know” principle applied and HMSU was expected to be flexible to whatever circumstances arose. HMSU members had a higher level of training than ordinary officers, particularly in firearms and in response to serious incidents and dealing with terrorists.

[112] He recalls that February 1986 was a time of heightened tensions and activity by terrorists against security forces and civilians in the Castledawson area. He is certain that he would have received a briefing before his duty which consisted of a mobile patrol. It is likely that this involved driving around the Castledawson area, laying up for periods of time and setting up vehicle check points. He was in a vehicle with other HMSU colleagues. He does not recall who he was with except for Sergeant McCauley. He does not remember any reference to the military, or any

military involvement in his briefing that evening or any military personnel involved in the patrolling.

[113] He thinks that Sergeant McCauley had a radio but may have had an earpiece and thus he may not have heard whatever communication his vehicle received about travelling to the property. He did not have any knowledge of the property prior to arriving at it nor any awareness of the deceased. He was not aware of military activity in the area until he arrived at the scene.

[114] He has a recollection of Sergeant McCauley and himself walking to the back of the premises and seeing a body. A soldier pointed out the body to him. He was instructed by Sergeant McCauley to take control of the scene until CID or SOCO arrived. This required him to stand in the area of the body and ensure that nobody interfered with the area. He did not keep a log. He remembers seeing a rifle beside the deceased's left hand and that he was wearing gloves. Apart from the soldier pointing out the deceased to him, he does not recall speaking to any other soldier, and he does not recall when and how the soldiers left the area.

[115] In his statement made in 1986 he confirmed that he was a member of a two-vehicle mobile patrol. At 10.02pm a message was received to go to the farmhouse on the Hillhead Road. His vehicle arrived at 10.07pm. The deceased was lying parallel to the rear of the outbuilding and close to the deceased's left hand was a loaded rifle and set of car keys. The uniformed soldier pointed out another loaded rifle which was approximately five feet from the top of the head of the body and in behind building materials at the rear of the outbuildings.

[116] He confirmed that there would have been a debriefing but cannot recollect the contents of it. He agreed that in addition to his Sergeant being in the vehicle, P1 and P16 could also have been in the vehicle.

[117] Former Sergeant McCauley gave evidence before the inquest. On 18 February 1986 he held the rank of Sergeant. He was attached to HMSU. HMSU was attached to E Department (Special Branch). It was different to DMSU which were assigned to specific police divisions. HMSU could be tasked all over Northern Ireland. E Department HMSU was a specialist unit which was different from DMSU/HMSU.

[118] The HMSU unit he was attached to had one inspector, four sergeants and around 20 constables. HMSU operations were tasked by TCG which was a part of Special Branch and generally intelligence led. HMSU officers received additional training to that provided to normal police officers. HMSU could be tasked in support of covert military units or police units in antiterrorist duties. HMSU could perform arrests, house searches, vehicle stops and checks, detention duties and preservation roles.

[119] Like other police witnesses, he referenced the "need to know" principle and also stated that it was fundamental to how E Department operated. HMSU was

required to be flexible. What role HMSU performed depended entirely on the circumstances unfolding at the time.

[120] On 18 February 1986 he was tasked in support of a military unit. He does not know who tasked him from TCG or whether the tasking came from TCG North Region or Belfast Region. He does not recall the nature and detail of the tasking. Some taskings could be given with extremely short notice, including by telephone and would not have a formal briefing.

[121] He recalls being at an army base which was the base of the military unit which HMSU was tasked in support of on 18 February. He received a briefing from a soldier. He believes the military unit was present at this briefing as was the HMSU unit. The thrust of the briefing was that there was an uptake in terrorist activity in the South Derry area and there had been attacks on police and security force members:

“We were told that the military were deployed in a covert way in respect of lines of enquiry and HMSU was required to provide support if required”.

[122] The witness stated that this was known as QRF. He does not think he was briefed in relation to a specific person or persons, a specific address or what was expected to occur during their duty. The tasking was routine. He was not briefed with any information from the military about terrorist groups or individuals.

[123] He does recall performing policing in South Derry area but cannot now recall if he performed such duties prior to 18 February 1986.

[124] The HMSU deployed in two vehicles that evening. He believes he was with P1 and P4. He believes that P2 was in charge of the other vehicle with P6 and P3. He believes that the patrolling that evening consisted of laying up and general patrolling of the area. He recalls a message being sent through the radio which would have come from TCG radio operator that an incident had occurred. He set up a vehicle checkpoint on the main Belfast Road as the information received was of persons having fled a scene. Shortly after this they received a communication to attend at a property at which the deceased had died. Both cars travelled to the scene together.

[125] Upon arrival at the scene he was told there had been a confrontation and that at least one person had run off, and one had responded aggressively, and shots had been fired. He was taken to the body. HMSU then performed the role of arresting suspects and preserving evidence. He subsequently tasked other police resources. He does not recall any further conversation with the military. The priority at the time would have been the people detained and the scene preservation. He was satisfied that the military were there and had identified to him what had occurred.

He was satisfied there was a system in place to identify soldiers, what had happened and any necessary forensic tests.

[126] He has a vague memory of seeing the deceased lying on his back with gloves on. There was a rifle close to his left hand and one nearby. He believes he would have informed TCG of what he observed and sought assistance. HMSU would have stayed until resources arrived probably by DMSU. He states that his section most likely returned to Castlereagh Police Station for a debrief but he cannot remember this. He would have led the debrief as the Sergeant.

[127] He made a statement in 1986 indicating that he had received the message to go a farmhouse just above the Elk Bar on the Hillhead Road at 10.02pm and they arrived at the location at 10.07pm. On arrival he was approached by a soldier who identified himself as being in charge of the patrol. This soldier explained the incident which had just occurred. Sergeant McCauley then went to 62 Hillhead Road and spoke to the prisoner, Terence McVey. A soldier took him to 60 Hillhead Road, where he observed two further prisoners. He was taken through a gap between two outbuildings where he saw another soldier and was shown the body of the deceased. He saw a rifle laying to the left-hand side of the body, he was shown another weapon four or five feet away from the body, and he noted that the deceased had a pair of rubber gloves on both hands. He detailed another constable to remain with the body and to let no one interfere with the scene. The soldiers then left the scene.

[128] He confirmed that in respect of the briefing received on 18 February 1986 at the military base this would be relatively uncommon and that the briefing given by a military officer rather than an RUC officer would also have been relatively uncommon:

“Clearly our function was to act in support of the Special Military Unit and respond to whatever unfolded on that evening.”

[129] He had a personal radio with an earpiece in direct communication with TCG. His recollection is that all officers would have heard the radio communication.

[130] He indicated that he was unable to account for the specific words used by the soldier at the scene, but it was to the effect that the individual had been challenged by the military, he had responded aggressively, and the military had been required to fire shots. Thereafter the military had pursued others who had run away.

[131] He indicated that it was never communicated to him that the deceased had been seen at a location proximate to an old railway line when he had been seen with an object believed to be a rifle. Furthermore, he was not informed of a car connected to the deceased or that the deceased had potentially gone down an old railway line at the rear of the property in Hillhead Road. It was never communicated to him that soldiers were travelling to the location at the rear of 60 Hillhead Road before he had

received the communication to go to the location. He confirmed that none of the actions prior to the shooting had been communicated to police who were there in support of the military.

[132] He confirmed in cross-examination from the NOK that arrangements existed whereby military involved in shooting incidents, their details and their weapons would be subsequently produced to police for full investigation and examination. It was not the protocol at the time to seize the military weapons. Sergeant McCauley was asked by the NOK if it was protocol not to question the soldiers about the circumstances which gave rise to the deployment of lethal force. He stated that their function was to preserve evidence. He was fully confident that the weapons and the details of military involvement would be forthcoming quickly. He fulfilled his functions as required that night and his response to the events was appropriate to the incident that had taken place. He did not accept that his starting point that night was that the soldiers were not suspects and that a different approach would be taken had soldiers not been involved.

[133] He confirmed that HMSU had no role in the planning or decision making as this was essentially a TCG matter and that HMSU was tasked accordingly. He stated that the HMSU did not have a specific investigative function and that this was the role of CID. The role of HMSU was scene preservation and to effect arrests, carried out to the best of its ability. He was not privy to military communications which went to TCG.

[134] P11, in his statement, admitted under rule 17 informed the inquest that he had driven Detective Superintendent Murray (DSI) to the SMU location on the evening of 18 February 1986. He stated that he had no prior knowledge of the operation in question or the involvement of TCG save that he recalled being made aware that the military were carrying out surveillance and there was an operation in place to arrest and detain.

[135] In addition to the two-car patrol of HMSU officers on the ground that evening, undercover soldiers in plain clothes from the SMU surveillance subunit were also in attendance and were also in cars. The following five cars and their surveillance subunit occupants have been identified. (1) P and O; (2) G on his own or "solo" (3) R also solo; (4) Q who may or may not have been on his own; and (5) V, the officer in command, who was parked on his own in the Black Park area.

[136] Soldier R states that he was parked together with two cars from SMU reactive subunit, each with four soldiers. The reactive subunit soldiers parked up in the Castledawson/Toome area were Soldiers I, J and K, M and S. Soldier S was part of mobile reaction team and was with two other soldiers, one of whom is now deceased. Soldier S was deployed in the opposite direction from Hillhead Road about "one to one and a half, two kilometres away."

[137] Soldiers D and E were also from the surveillance subunit and had earlier been with Soldier G. Soldiers D and E were in uniform.

[138] Soldiers A, B and C were part of a “standby team” of SMU reactive subunit and were deployed urgently or to “crash out” from their base. They were dropped off on a road close to the disused railway line by Soldier F. Soldier A was the patrol commander.

[139] Soldier M was second in command and the reactive subunit ground commander.

[140] Soldier H was the reactive subunit officer in command on the 18 February 1986 in the reactive subunit operations room with the responsibility of assessing the TCG tasking.

[141] Soldier U was the surveillance subunit commanding officer that night in the surveillance subunit operations room. He was described as being “on the desk”.

[142] Soldier O gave evidence before the inquest. At the time of the incident, he was serving with the SMU in the surveillance subunit. He was driving a car and accompanied by Soldier P. He recalls driving to Toomebridge and then across the water. He was driving on a main road. After he turned left, he saw a car parked on the right-hand side of the road with its boot facing towards their position. There was a man standing at the back of the vehicle removing what appeared to be a weapon shaped object which was wrapped in what looked like cloth. This was reported over the radio.

[143] The man removing the weapon from the car was Francis Bradley. He was a known PIRA operative. The car was a known PIRA vehicle that was associated with Mr Bradley. After they had driven past the car and Mr Bradley they continued to a place where they could discreetly turn around. They then drove back. When they drove back the car was unoccupied. The boot was closed, and Bradley was no longer there.

[144] Soldier O was aware that the car was parked close to a disused railway line and made the assumption that Bradley had taken the package along the disused railway line on foot. He did not know the location that he was heading for.

[145] He then drove a short distance to an area adjacent to a garage, shop and café. This was a known place to lay up. He got out of the car on the pretence of urinating in order to look over or through the hedge to see if he could locate anything of interest.

[146] The area where he and Soldier P were at was reasonably lit. There was light from the garage. It was not pitch dark. They were told that soldiers were on their way to set up a night standing observation post and that they were to remain in their

position until they arrived. They did not know who the soldiers were or where the Operational Post (OP) would be.

[147] Soldier O indicated that a car pulled into the garage and came up close to their location with its lights on. There were five people in the car who appeared to be male. Soldier P radioed in the vehicle registration, and it was confirmed that this was a known PIRA vehicle. They were now a potential target. They prepared themselves for a possible engagement. The men did not open any of the car doors and after a while drove off.

[148] Soldier O and P remained in the location until they were advised that soldiers for the OP were in location. Soldier O indicated that he heard over the radio net whilst driving back to base that there had been a contact. He believes that the contact happened quite quickly after they had left the location.

[149] He stated there would have been a number of surveillance cars in the area and there would always have been backup when they operated in these conditions. The reactive subunit would have soldiers in vehicles in the area.

[150] During his oral evidence, Soldier O stated that he had the male person under his observation for a short while and couldn't say how long it would be in seconds. He recalled that he saw, "a shape that was weapon like wrapped up in what I thought was cloth". He had seen photographs of Francis Bradley which were held at the military base as he was a known PIRA operative. He stated, "Mr Bradley turned to look at the car as we were driving up towards it." The car was a known PIRA vehicle which had been identified from information received over the radio. This observation of the male whom they believed to be Mr Bradley took place on the Blackpark Road.

[151] Soldier O confirmed that the vehicle which pulled into the garage containing the five persons came so close to their vehicle that they were unable to get around it. When Soldier P gave the vehicle registration over the radio it came back as a traced PIRA vehicle. The standoff between the two vehicles lasted minutes.

[152] In cross-examination by NOK, Soldier O accepted that he didn't see the male taking the item out of the boot. The male turned to look at their car as he was driving up the Blackpark Road. He recognised Mr Bradley holding what he considered to be a weapon wrapped up in some cloth. He accepted that in his statement he did not say that Bradley turned to face him. He did not accept that he only had a fleeting glance of the male.

[153] Soldier O confirmed that his role that night was surveillance and that he wasn't there to make an arrest. "In my time, I'd not heard of a surveillance operator arresting anybody."

[154] He stated that he assumed that Mr Bradley would go up the disused railway track because he had what he considered to be a weapon, and he didn't think that he would travel along the road where people would see him.

[155] He stated that from his position at the hedge in number 62 Hillhead Road he could see the rear of the farmhouse at number 60. He could not recollect what the weather was like except that it was dry.

[156] It was suggested by the NOK that the encounter with the car containing the five men in the carpark of number 62 was exaggerated and elevated well beyond what it essentially was. Soldier O rejected this contention.

[157] Soldier O confirmed to Mr Horwell KC that he was "100 per cent confident" that the man he saw at the rear of the car was Francis Bradley because he recognised him from photographs he had seen. In response to the contention posed by the NOK that Soldier O should have arrested Mr Bradley, he stated that, "it wasn't my brief to arrest."

[158] Soldier P gave evidence before the inquest. She was serving with the SMU surveillance subunit and had spent nearly two years in Northern Ireland with this unit. She does not recall any briefing or orders on 18 February 1986 but remembers being in a vehicle with Soldier O.

[159] She recalls turning left off the road they were on and seeing a car parked on the right hand side with its boot facing them. There was a man at the back of the vehicle with the boot open and he was holding a long object which was wrapped up. This looked like a weapon. They both recognised the man as Francis Bradley and the car was a vehicle associated with him. They drove past the car, went a safe distance, and then turned and came back. By the time they returned, the car was unoccupied, the boot was closed, and Francis Bradley had gone.

[160] She and Soldier O drove a short distance and pulled into a parking area adjacent to a shop and parked up facing the road. A car drove into the area they were parked in and stopped directly in front of them. The car had its headlights on. She could see that there were five men in the car. She relayed the registration number over the radio. They were advised that this was a PIRA vehicle. She feared that they had been identified as surveillance operatives and they were about to be attacked. She recalls taking the safety catch off her machine gun which was sitting on her lap. The PIRA vehicle then drove off after a period of time. She was told that soldiers had deployed into an OP. On the way back to base they were told that there had been a contact.

[161] She recalls that there were two cars from the reactive subunit parked about a mile from their location. This was the military support that acted as back up. She did not know who the soldiers were, only that they were present as back up.

[162] After she returned to base, she had no further involvement in the matter.

[163] In her oral evidence she said she was certain it was a rifle she saw, and she categorically recognised the male as Francis Bradley. She had seen photographs of him back at their base as being a party they were interested in, and she had also seen him on a previous occasion driving a vehicle. This was possibly some weeks before. She stated, "I was a trained surveillance operator. I'm 100 per cent certain that it was Francis Bradley ... We saw the individual very clearly in the headlights. As we approached, he turned towards the car as people do instinctively and I had a very clear look at him." She recognised the car and the number plate as being associated with Francis Bradley without having to radio it in.

[164] She confirmed that the reactive subunit would be the unit more likely to be involved in either conducting an arrest operation or a vehicle stop. Her unit was a surveillance unit. She confirmed that she had radioed in the fact that a car had arrived with five people in it and that she and Soldier O might now become a target. She was scared but she did not communicate this to the desk in military headquarters. She would have communicated that the car was there, and it was parked in front of them. She rejected that the incident with the car was exaggerated. She considered that her life and the life of Soldier O was potentially in danger.

[165] She further stated that Bradley turned towards them. The fact that they didn't say in their statements that he turned towards them did not mean that they did not recognise him.

[166] Having considered the evidence of Soldiers O and P, I am satisfied that the male person at the rear of the vehicle on the Blackpark Road was indeed Francis Bradley and that both soldiers did observe him with a rifle shaped object wrapped in what appeared to be a cloth. They both recognised Bradley and whilst the observation was of short duration over a few seconds, I am satisfied that their observations are entirely credible and accurate. I am also satisfied that when Soldiers P and O drove to 62 Hillhead Road there was a potentially threatening confrontation with a PIRA registered car containing five men. This vehicle did not just arrive there by chance. It is highly significant that the property was immediately adjacent to number 60 Hillhead Road, the location from which the deceased was removing a rifle when he was shot by members of SMU. This car very likely contained members of PIRA active service unit (ASU).

[167] The evidence of Soldiers O and P place Francis Bradley a short distance away from the property at 60 Hillhead Road when they observed him. On the balance of probabilities, I find he was responsible for placing the rifle at the rear of the outbuildings at 60 Hillhead Road and used the disused railway line as the means to get to the farmhouse rather than walking along the roadway.

[168] The NOK submit that Soldiers O and P, being members of SMU, were presented with a clear opportunity to conduct a lawful arrest of Francis Bradley

without the deployment of lethal force. Despite this, they failed to take any steps to conduct an arrest. Francis Bradley was not in a position to deploy the weapon at the time when the two soldiers came into contact with him, and they could have effected his arrest on the Blackpark Road.

[169] Soldier O claimed that he was trained at a level where he could arrest individuals, but his brief was not to arrest. His purpose of being on the ground at the time was to carry out surveillance. He was not there to make an arrest. Whilst Soldiers D and E were also members of surveillance subunit, they had both been tasked to apprehend gunmen and thus effect arrests. Soldiers D and E were deployed along with Soldiers A, B and C, all members of reactive subunit tasked to apprehend gunmen.

[170] There was a clear distinction in the role being played by Soldiers O and P and that played by Soldiers D and E on that evening. I am satisfied that the decision not to arrest Francis Bradley did not increase the likelihood that lethal force would be deployed at a later stage that evening, nor that it was virtually inevitable as a result of his non-arrest on the Blackpark Road.

[171] The inquest heard from Soldier M. He was the ground commander of the reactive subunit on the night that Francis Bradley was shot. He was not present when the shooting took place. He was in a car a short distance away. He recalls that this was a TCG tasked operation. The task was to arrest the gunmen in possession of the weapon or weapons. There were multiple teams deployed to achieve this as they may have been required to intercept a vehicle, enter a building or seek to make an arrest on the ground. He recalls that on a prior occasion, SMU was tasked by TCG to intercept a vehicle with weapons in it and arrest the occupants. This task was successfully undertaken. The terrorists were detained, arrested by the police and taken through the courts.

[172] He confirmed that SMU soldiers were trained to react according to their own initiative and there was a patrol commander. His role was to react to circumstances for example, if the weapons went mobile, to try and effect an arrest by a hard stop. He was in overall command on the ground.

[173] He would have been listening on the radio net but cannot now recall any of the radio traffic. He arrived at the farmhouse after the contact and before the HMSU. He would have received a report of the contact from the soldiers. His role would have been to secure the scene and hand over to HMSU.

[174] He confirmed that the reactive subunit could be tasked with any job in trying to capture or detain terrorists or gunmen in possession of a weapon or weapons. The role of the ground commander was basically to coordinate the troops on the ground and to react to whatever the terrorist might do on that particular operation. He would be in overall command in trying to make sure that the reactive units were in the right location and were able to detain the terrorists. To this end he would have

been receiving all the radio communications. He has no recollection of having received a radio call that Soldiers O and P had made a sighting of Francis Bradley.

[175] He has no recollection of receiving any communication that a car had blocked in Soldiers O and P. That communication would have gone back to headquarters, and he could have listened in to that communication when on the radio net. He made the decisions on the ground.

[176] He stated that this was a TCG tasked operation and TCG provided what information they could for the military to plan the operation. In terms of the briefing to military personnel, Soldier M gave the briefing as to how the operation was to take place. He indicated that Bradley could not have been arrested earlier as they couldn't say with 100% certainty that he had a weapon, and the military would also be trying to see if they could arrest other people who would have been linked to the weapon at that time.

[177] He also confirmed that as part of the briefing and as part of the training, the soldiers deployed would have been briefed as to the contents of the Yellow Card before being deployed that evening:

“... I gave the orders that the arrest was to be carried out under the terms of the yellow card. So, ... of course the idea is to arrest the individuals if you can but under the rules in the yellow card.”

[178] He stated there was never a “shoot to kill policy” in Northern Ireland:

“... the operations that I was involved, we arrested the vast majority when we could so the aim was always to arrest the individuals and that's I'd just say, what the police were looking for because they hoped to get information from the people arrested.”

[179] He stated that the aim in these operations was to capture and arrest individuals who were going to use weapons. He confirmed that an arrest would not necessarily take place if a person had a weapon, and it was thought that other people were also going to be involved with that weapon. He stated that on these operations it was not the role of the surveillance subunit to conduct an arrest. Their role was to pass on information received by carrying out the surveillance. It was the job of the reactive subunit to make the arrest, “The aim is to arrest an ASU if we can.”

[180] It was suggested to him by the NOK that an arrest could have been carried out earlier that evening and a situation was created whereby the consequence of the failure to arrest earlier led to the shooting of Francis Bradley. Soldier M did not accept this proposition.

[181] Soldier M told the inquest that HMSU would have been briefed separately. He indicated that backup to Soldiers O and P, when confronted by the five men in the car, would only have taken place had they requested it. He had no recollection of this incident taking place.

[182] The arrest plan that evening depended on what the military was faced with. It was very much dependent on what the terrorists did and the circumstances that the military found itself in. The military thus planned for a number of different options to facilitate the arrest. The plan would have been approved by him and TCG.

[183] TCG would identify the objective of the tasking and SMU could decline to accept a tasking if it felt that it could not achieve the objectives set by TCG. The aim of SMU was always to effect an arrest. He stated that SMU would hand over anybody arrested to HMSU, hand over the incident site to HMSU and then withdraw.

[184] There would be a representative from the police at army base headquarters during the operation and a TCG person would listen on the net to the various communications. As regards an arrest plan, Soldier M stated that you have to look at all different options where you might be in a position to make an arrest, whether it is a mobile arrest, an arrest in a building or an arrest on the ground in open country. "In the countryside it is different obviously to making an arrest in an urban area. We make the best plans but we've got to be prepared for any option that may occur."

[185] Soldier G gave evidence to the inquest. He was a member of SMU surveillance subunit. He stated that Francis Bradley was identified as a member of PIRA ASU in briefings received. He was not tasked with carrying out surveillance on him. He cannot recall the number of the surveillance subunits deployed on this operation, but it was standard practice to have at least four vehicles deployed. On this evening Soldier G was deployed as a solo operative and recalls that Soldier R was also solo with Soldiers O and P deployed as a pair. He recalls that Soldiers O and P reported over the radio net that they had sighted a man taking a weapon out of a car on the Blackpark Road. He cannot now recollect whether they identified the car or the man. Shortly after this message he recalls that an OP was set up on the disused railway line.

[186] The next message over the radio net from either Soldier O or P stated that they had been compromised by a PIRA unit. In response, he moved in to support them. He parked his car in the car park of the Elk Bar to provide rapid response if necessary. When parked at the Elk Bar he heard gunfire, and a report of shots fired over the radio. After the gunfire he went mobile and drove past the farmhouse. There was no activity outside the farmhouse. Upon returning to base there was a discussion about what had taken place during the contact. He cannot recall if it was a debrief or a back brief. It was reported that the OP had been set up on the disused railway line and there was a gap in the hedge and an outbuilding. Francis Bradley appeared in the gap in the building and picked up a weapon. Soldier A challenged

him, and Bradley turned and pointed a gun at him. Bradley was then shot and fatally wounded.

[187] During his oral evidence Soldier G estimated that he was in the car alone for up to one hour prior to the shooting. He does not recall being in the car with Soldiers E and D. His function was to survey any targets that might come up and were reported by any other members of the team, or reported by the control desk, who then would task them to follow that person or car as required. His remit was not to arrest people that evening in possession of firearms as it was not part of his function.

[188] A debrief would have been done immediately afterwards, a back brief would have been done the following day or as things became clearer.

[189] Despite the evidence of Soldier D and E which records G as having dropped them off near the disused railway line, Soldier G maintained his position that he had no recollection of this. His recollection is that he was in the car on his own. He had no recollection to clarify the sequence of events, namely whether Soldier's D and E were dropped off before or after the radio commission that Soldier's O and P were compromised at the car park layup.

[190] Soldier H gave evidence before the inquest. He was the officer in command of the reactive subunit of SMU. The operation was TCG tasked. When they were tasked to deploy, they were given information on a "need to know basis". If they were tasked to support the surveillance subunit, they would be given the location of the operation and its nature, for example a hard arrest operation which may involve stopping a vehicle, entering a building or arresting terrorists on foot. The soldiers on the ground would then react to the particular circumstances as they arose. They would not be told of the background intelligence. Their task was usually to undertake an arrest at a specified location of terrorists who were likely to be armed.

[191] The SMU reactive subunit would have been tasked to support the surveillance subunit by TCG. He states that, "Our task was to arrest terrorists." He did not recall the tasking. The tasking would have come from the liaison officer or more likely over the secure phone direct from TCG. He recalls that this was an urgent situation that developed quickly.

[192] The SMU reactive subunit had a standby team and once tasked to go on the ground, they would have been briefed very quickly with the information received and they then would have been deployed. In an urgent situation, the standby team would leave the base within 10 minutes of the tasking order from TCG. This was called "crashing out". It would have taken the soldiers approximately 30 minutes to get to the general area where Francis Bradley was shot.

[193] Soldier H was in the operations room at his base after the soldiers had deployed in vehicles. He recalls that he left the operations room. He recalls a Detective Chief Superintendent arriving together with his colleague, and they went

to the operations room. He was not in the operations room when he received the message that there had been a contact.

[194] As Officer in Command of the reactive subunit, Soldier H was responsible for the deployment of his soldiers on the ground and in a task that he was satisfied they were able to perform. He was not in command on the ground post deployment. The ground commander was Soldier M, and the patrol commander was Soldier A. Soldier M had overall command of the soldiers on the ground and Soldier A commanded Soldiers B, C, D and E. The soldiers on the ground were trained to use their initiative and to deal with situations as they developed.

[195] He would have been aware of the soldiers deploying on foot, the drop off location and the location to which they deployed. Once they were lying up, he would have received that message over the net. He was not present and had no visibility of the events as they unfolded and so the soldiers would have acted on their own initiative.

[196] Soldier H has no recollection of speaking with the soldiers from the reactive subunit after the operation had taken place.

[197] He states that soldiers were trained to operate within the law and to detain terrorists, who then would be formally arrested by the police. They acted in support of the police. He stated that there was no "shoot to kill policy" in relation to Francis Bradley, and "there was no such policy."

[198] He was informed that Soldier A shouted out "halt" and then fired when Francis Bradley spun to face him with a weapon in a position to fire and Soldier C also fired. He stated that soldiers are entitled to fire without warning where their life or lives of others were in immediate danger.

[199] He confirmed during his oral evidence that Soldier M was his second in command, and as such, was the usual ground commander on these operations. In this operation, the task was at very short notice and based on limited information and to support an ongoing operation the surveillance subunit were engaged in.

[200] Soldier H indicated that he did not receive any messages from Soldier O or Soldier P. The nets were split because the surveillance net was busy, and it was an ongoing fluid situation. He was not monitoring the surveillance net but was monitoring the other net, so he knew where the soldiers were that he had deployed. There was an element of urgency to the tasking and that is why they responded so quickly (crashing out).

[201] He did not remain in the operations room as this was a surveillance operation, and as everything had gone quiet, there was no reason for him to remain in the operations (OPS) room. The Chief Superintendent went to the OPS room and stayed in the OPS room with the commander of the surveillance operation, listening

to what was going on. There were two OPS rooms. The OPS room of the reactive subunit and a neighbouring room for the surveillance subunit, which was where the main operation was being run from. On this occasion, they did come together because they were tasked by TCG to support the surveillance subunit. The two channels would be joined together so that all the soldiers involved in the operation on the ground were on the same radio. This radio net would have been reporting back to the surveillance subunit OPS room. Once he was aware that there had been a contact, he would have gone to the OPS room and monitored what was happening on the ground.

[202] Soldier H told the inquest that the circumstances in which soldiers open fire was regulated by the civil law. All operations were based on the civil law. The Yellow Card was a series of guidelines that interpreted the civil law and gave clear instructions to the soldiers as to when and in what circumstances they could open fire and what actions they should take:

“Under the guidance of the yellow card, a challenge is to be issued before opening fire. The words of that challenge are written there, or words to that effect. What action is taken, what the reaction of the soldier is depends upon the action of the terrorist.”

He did not accept that the use of the word “Halt” alone did not comply with the Yellow Card. He commented that:

“If the soldier felt that he could not state the full challenge as advised by the Yellow Card ... everything depended on the action of the terrorist.”

[203] In response to the NOK, Soldier H indicated that the operation was a surveillance operation and remained so right up until the time of contact. He was asked about the term “hard arrest”. He stated that the proximity of soldiers attempting a hard arrest depends on the circumstances. He did not accept the proposition that the further soldiers are away from the target of the arrest, the more difficult it is to give effect to a hard arrest:

“No, I don’t accept that, that’s not necessarily the case ... it depends on the circumstances, the geography, it’s hard to give a generic answer ... the reaction of the soldiers depends upon what they are seeing at the time and the actions of the terrorists.”

[204] Soldier H accepted that the RUC were reluctant to have SMU involved in operations in Belfast. He believed that the police did not want reactive military forces operating in urban areas. He stated that, “we did manage to arrest people without killing them because that was always the aim of the operations ...”. He

again made the point that the operations in which terrorists were killed by SMU were totally dependent upon the actions of the terrorists at the time.

[205] When further questioned about the Yellow Card, he stated that the full warning was not a requirement in every instance:

“if to-to issue a warning puts you in greater danger than you already are, by identifying verbally or audibly, your position, then you are putting yourself at greater danger ... and I make the point this is for the soldier on the ground, his judgment, but I do not think it is unreasonable to cut short a challenge depending on what you’re seeing the action of the terrorist is. And if you were (inaudible) it puts you at greater risk, then you would be within your rights and within the guidance of the Yellow Card not to pursue a warning.”

[206] Soldier S gave evidence to the inquest. He was deployed with SMU reactive subunit in February 1986. He recalls the operation that led to the death of Francis Bradley. He was part of the mobile reaction team. He was deployed in the opposite direction from the location where the incident took place. He was a driver and had two soldiers with him. They were parked in a lay-by in a lying up position, ready to react to whatever happened. He was ready to do a hard stop of a vehicle, if necessary, enter a building and support the soldiers in the night standing OP.

[207] He recalls the weapon or weapons were at the back of an area where there was a shop and a house. He understood the weapons were going to be picked up and used by a gunman. He remembers that two men came to pick the weapons up, and Francis Bradley was shot dead. When the contact happened, it was over very quickly, and his unit moved in fast. He moved to the front of the house and got out of the vehicle. The soldier he was with went into the shop after a man he had seen go in. They then formed a cordon. He recalls flares going up. He does not recall the HMSU arriving.

[208] He stated this was a serious situation with weapons that were about to be used and so a number of vehicles containing soldiers from the reactive subunit were deployed in order to intercept a gunman to prevent a killing.

[209] He recalled being about “one, one and half to two kilometres away” from Hillhead Road in the lay up position. He does not recall receiving any radio communication from Soldiers O and P. He stated that every time he had a briefing, the actions were covered and soldiers in the mobile support vehicles were trained to react to any given situation.

“Before we were deployed, we were told that there was a likelihood that gunmen were going to pick up weapons in the Toomebridge area.”

[210] Soldier Q gave evidence in the inquest. He was serving in the surveillance subunit. He knew the name of Francis Bradley prior to the night he was shot, “I knew him to be a PIRA member.” He recalls that he undertook surveillance on Francis Bradley but does not recall the detail of this. The unit was tasked by TCG. They were told that the weapons were intended to be used in a killing. There were a number of police and Ulster Defence Regiment (UDR) soldiers living in the area and so were at risk as being likely targets. That night he was in a civilian car. He believes he was with another soldier but is not certain. He was driving the car. His recollection was that it was not a bad weather night. He knew the local area. He thinks they were on the Blackpark Road and the Elk Bar car park.

[211] There was a lot of radio traffic. He no longer recalls any of the messages. He recalls that most, if not all of the subunit were on duty. He thinks about 12 were deployed. He does not recall where he was when the contact occurred. He was not at the location where Francis Bradley was shot. He expects that a photograph of Francis Bradley would have been available to those at the military base as he was a known PIRA member. He couldn't recall whether this was in fact the situation.

[212] Soldier R gave evidence before the inquest. He was serving with the SMU in 1986 in the surveillance subunit. He recalls Soldiers P and O were deployed on the operation as a joint patrol. He recalls undertaking surveillance on Francis Bradley and two other individuals in the area west of Toomebridge. He remembers this because the area in which they lived was not an area that was associated with terrorism at this point. He was familiar with the area as that was his job in surveillance.

[213] Francis Bradley was believed to be one of a number of people who were in the local PIRA and a possible member of the Toomebridge ASU. He also recalls that a “Brian McLarnon” was under surveillance for the same reason.

[214] He recalls that on the night in question it was a fairly well-lit night. The surveillance subunit deployed together with the reactive subunit. This meant having both the mobile response capability and soldiers on the ground at a night standing OP. He parked up to the west of Toomebridge with two cars from the reactive subunit each of which had four soldiers. He led the two reactive subunit cars to this location. He moved towards the Blackpark Road, adjacent to a disused railway line. He heard high velocity gunfire, which was over very quickly, but he could not say how many rounds were fired. He deployed his car across the Blackpark Road to stop any vehicles accessing the road and the reactive subunit deployed along a disused railway line. He recalls a soldier firing two flares so that the reactive subunits who had been on the disused railway line could see.

[215] Soldier R recalls waiting on the Blackpark Road until the reactive subunit soldiers returned and they then went back to base. He does not recall a debrief. His recollection is being sent out immediately on another surveillance operation.

[216] Soldier U gave evidence to the inquest. He was the surveillance subunit commanding officer that night in the surveillance subunit operations room. He was the OPS officer and was running the desk and thus in charge of the surveillance operation. There were two OPS rooms, one for the surveillance subunit and the other for the reactive subunit. A soldier from the Royal Signals was in control of the radio log and someone from the Intelligence Corps. This soldier would undertake a vehicle registration number check and be able to confirm a vehicle was a PIRA known vehicle.

[217] This was a TCG operation and Detective Chief Superintendent (DCI) Frank Murray was present at this location. Soldier U thinks that DCI Murray was in the reactive subunit OPS room but is not certain of this. He must have come into his OPS room at some stage as Soldier U knew he was there.

[218] Soldier U was running the surveillance team. He was in communication with the mobile surveillance individuals, surveillance individuals on foot, the Gazelle helicopter, the Puma helicopter and he could liaise with the reactive subunit. He believes these assets could be run through his desk and all operating on the main channel. He controlled the main net for the operation. On this net was the surveillance soldiers, the Gazelle, the Puma and the soldiers deployed into the night standing OP. The HMSU were deployed with a liaison officer from SMU. The reactive subunit had their own net, and they could switch to the main channel. He was not on the reactive subunit net.

[219] He has a vague recollection that there was a lot of radio communications prior to the contact occurring. He has no recollection of hearing the name Francis Bradley over the radio. They did not use names over the radio. He confirmed that if Soldiers O and P knew Francis Bradley as a PIRA operative and had studied his photo in advance of the operation, he would have had a bravo designation. He does not recall if he knew the name Francis Bradley before this operation due to the passage of time.

[220] Soldier V gave evidence to the inquest. He was the officer in command of SMU surveillance subunit on the night that Francis Bradley was killed. He was deployed not in a command role, but as a surveillance individual on the ground. The soldier in command of the surveillance operation that night was the OPS officer who was on the desk in the OPS room. He had control of all-inclusive surveillance radio net.

[221] Soldier V was in a car on his own, located in the area of Blackpark Road. He does not recall any briefing or specific tasks that night. He was usually deployed to look for persons or vehicles of interest. He does not recall the name Francis Bradley

and cannot say if they undertook surveillance on him around the time of this incident.

[222] He does recall being engaged in a long running surveillance undertaking on members of the local PIRA ASU. He does not recall the names of the individuals associated with this ASU. It was within this operation that Francis Bradley was killed. There were numerous operations ongoing during this time. He cannot say how long the operation had been running. The best evidence he can give is weeks or months.

[223] He does not recall other surveillance individuals who were deployed that night. He recalls the identity of Soldiers O and P but has no recollection of Soldiers O and P that night and cannot therefore comment on what they did.

[224] He does recall that the reactive subunit of SMU was acting in support of the surveillance subunit. He does not recall any contact report, nor does he recall any debrief.

[225] He agreed that SMU was deployed at the behest of the police and that TCG had ultimate control of all operations. He also agreed that the soldiers on the ground could make individual decisions in response to individual circumstances.

[226] Soldier E gave evidence before the inquest. He was a member of SMU surveillance subunit. He did not recall any of the details of the TCG tasking. TCG wanted the terrorists who were going to receive the weapons to be arrested. This was called a hard arrest and would be undertaken by the reactive subunit of SMU. Soldiers within the SMU reactive subunit were called out to support his subunit as and when an arrest may be required. His 1986 statement details that he was in a civilian car, accompanied by Soldiers D and G. Acting on information received, he and Soldier D were dropped off and went on foot to meet soldiers A, B and C to the rear of the farmhouse, where the incident took place. He further stated that prior to commencing the patrol, they had been briefed that a general terrorist threat existed in the area. Having made their way to the rear of the farmhouse, their task was to apprehend the gunmen.

[227] A document was contained within the material furnished by the next of kin, described as a note of the inquest from February 1987. A summary note relating to this document can be found at Appendix 1. I refer to this material on several occasions throughout my findings when referring to evidence of the relevant witness from the original inquest in 1987. Soldier E provided evidence to the original inquest in 1987. When questioned about the events he stated that he was positioned at the farmhouse by Soldier A and told what to do. He was told by Soldier A that gunmen were operating in the area. He said that he didn't know why he was in exactly that position, but that Soldier A was the only one who could answer that question.

[228] He said that there was no stipulation as to apprehending the alleged terrorists, dead or alive. They were simply to be apprehended. There was no stipulation to this effect in his briefing. He was not told to be careful, simply to get alleged terrorists alive and just to apprehend them. He was not aware of any discussions as to how to apprehend the alleged terrorists.

[229] He was asked if a hard arrest included having to shoot at the suspect and he replied, "No."

[230] It was suggested to him by the NOK that there was no way from the location at which he and his colleagues located themselves that they were ever going to be able to effect a physical arrest and detention of gunmen. His response to that was:

"I didn't comment on that ... I don't think that's a realistic proposal you are putting forward to me."

[231] He stated that he didn't know that there were going to be gunmen at the back of that farm. He said that he didn't know what the plan was or if there was one. He disputed the suggestion that there was no possibility of a physical arrest of the gunmen from the location chosen at the rear of the farmhouse.

[232] Soldier C gave evidence before the inquest. He was part of the standby team of the reactive subunit. His role was to be deployed when tasked by the tactical control group (TCG). He did not have any recollection of the briefing prior to ground deployment but confirmed that there would have been a briefing. On the night in question the standby team was crashed out and needed to be deployed quickly. He recalls meeting Soldiers D and E once he arrived on the ground. These soldiers were from the surveillance subunit.

[233] He knew that there were gunmen operating in the area and that a weapon or weapons were in a hide and likely to be collected by an ASU gunman who was about to use them in an operation. The soldiers deployed behind the hedge line at the back of the farmhouse. The hedge was thick in most places but there was a gap in the hedge where he was with a wire fence within it.

[234] In a deposition made on 25 February 1987 by Soldier C, he confirmed that he had been briefed before going out on patrol that there was a threat from terrorists in the area between Toome, Castledawson and Magherafelt. They were to operate as a double patrol with Soldiers D and E, and the driver, Soldier G. Around 9.30pm the same evening, he was told by Soldier A that they were to be dropped off to carry out observation at a farmhouse where they had been told that there were gunmen in the area. It was a cold, clear night with some cloud. There was a moon and visibility was good.

[235] He stated to the NOK that the purpose of the operation was first to arrest in the event of gunmen arriving. It was put to Soldier C that his statement was the only

statement made by the soldiers present at the hedge which made no reference to the issue of detaining gunmen.

[236] He was asked about the methodology of five soldiers on the “wrong side of a hedge” to effect an arrest on any gunmen. He replied by stating:

“I’m just told to go there by the commander at the time so I didn’t question it ... I was told to go there and observe the area and that’s as far or as much as I can do.”

He confirmed that there were no discussions as to how they were going to arrest any potential gunmen:

“There was no discussions at all. We were just observing the area ... It’s up to the commander to say what the plan is going to be, but basically until somebody turns up there’s no great scheme of planning because you don’t know what’s going on.”

[237] It was suggested to him that there was absolutely no plan in place to arrest these potential gunmen. He replied:

“We didn’t know where they were going to appear from. We had no idea yes ... So ... we were watching from that place ... to me, it’s a reasonable place to be able to observe the whole area.”

[238] Soldier D gave evidence before the inquest. He was in SMU surveillance subunit. He has a vague recollection of meeting up with Soldiers A, B and C. He did not recall how he got to the meeting point or where it was. His recollection now is being behind a thick hedge with Soldier E close to him. He recalled running forward from the hedge, seeing a person at the front of the house and a person being detained. He has no memory of hearing anything and doesn’t remember gunshots.

[239] In his deposition, made on 27 February 1987, he stated that prior to commencing that patrol they had been briefed about a general terrorist threat existing in the Castledawson/Toome/Magherafelt area. He confirmed that around 9.30pm he and Soldier E were dropped off and joined up with Soldiers A, B and C. They made their way to positions at the rear of a farmhouse where they had been told there were gunmen and told to apprehend them. Visibility was good. It was a cold, clear night with a spattering of cloud and a good moon. A short time later, a vehicle arrived, and two men exited the car. He stated that he heard “a cry of halt” from the soldiers, and then a short burst of gunfire. Following this, there was a shout that a runner was going right. He heard further gunfire as he made his way across the fence, a third burst of gunfire as he took cover behind a parked car, and the fourth and final burst of gunfire as he detained the “runner”.

[240] He confirmed to the NOK that they were working as a team and that the objective was to secure the detention of gunmen. He confirmed that, whilst a member of surveillance subunit, he was tasked that night to conduct an arrest operation. He accepted that he detained two persons that evening, Mr Walls, and Mr McLarnon. He was asked about the word "apprehend" and indicated that they would have tried to capture any gunman or suspects in the area. It depended on the circumstances.

[241] Soldier B gave evidence to the inquest. He was a member of the reactive subunit. He has problems recalling everyday details and long term although no application for medical excusal was made. He recalled being on patrol with Soldier C and Soldier A, but he did not recall anyone else on this patrol. He did remember that a person was shot. He remembered nothing else about the events and had to rely on his statement from 1986.

[242] His deposition dated 27 February 1987, was read into evidence. It confirmed that he had been briefed earlier that evening that a terrorist threat existed in Castledawson/Toome/Magherafelt area, and the soldiers were to operate as a double patrol. He was in the first patrol car with Soldier A and C. The second civilian vehicle was manned by Soldiers D, E and G. At approximately 9.30pm they took up a position at the rear of a farmhouse. They had been told that there were gunmen in the vicinity of the farmhouse, and it was their task to locate and apprehend them. It was a clear, crisp night with good visibility, there was little cloud, and he had a clear unobstructed view of the farmhouse and outbuildings. He took up position with Soldier A to his immediate right and Soldier C beyond him with Soldiers D, E to his left. A car arrived, and through his night sights Soldier B saw two men in around the vicinity of the farmhouse. He saw one of men bend down, who then went out of sight and he concentrated on the other man. At that point he heard a colleague shout "Halt", followed by a single shot and a burst of gunfire. Soldier B pursued the other man who was running. As he crossed the ditch with Soldier D he heard a further burst of gunfire. He heard a final burst of gunfire as he made his way to the front of the farmhouse. Soldier D had apprehended two men and B searched the two men who were unarmed. On his search of the vicinity he found a gun beside the deceased man and one a short distance away. He noted the deceased man was wearing rubber gloves. He returned to base and returned his weapon back to armoury.

[243] In the inquest in 1987 he had stated that Soldier A had told him that there was a probability of gunmen in the area of the farmhouse. He was not told how many gunmen and there was no information about guns being in this particular field. He said he was there because he had been led there by Soldier A. He said he had had two briefings, one before he left base and a second quick brief when he debussed. He said that he had not any briefings or description of the person who might appear and he did not know that anyone was going to appear. He stated that he was debriefed at base and the debrief was attended by members of the patrol. He said

they were debriefed by an officer and each member of the patrol accounted to the officer what had happened.

[244] Soldier A gave evidence before the inquest. He confirmed that in 1986 he was part of the standby team of the reactive subunit of SMU. The SMU was deployed in support of the police and only went on the ground when tasked by the police to undertake a particular role. The tasking would come from TCG. He did not recall the briefing received before deployment. His recollection is that the reactive subunit was acting in support of the SMU surveillance subunit. This unit was looking for PIRA weapons in the general Toomebridge area.

[245] His unit crashed out, meaning the situation was urgent. "Our job was to arrest anyone that we saw with weapons." He was the patrol commander in his vehicle which also contained the driver and Soldier B and C. There were other soldiers deployed in the operation in other civilian vehicles. His unit was briefed separately as to its role:

"We had to be able to deal with any situation which might arise. For example, enter a building, or setting up a VCP or hard stop a vehicle, and in so doing seek to detain any armed terrorists."

[246] They were dropped off at the particular area and joined up with Soldier D and E. They walked along the track behind the garage. He recalls seeing a parked car at the back of a garage and two soldiers, a male and female in it from the surveillance subunit. This was Soldiers O and P.

[247] In his deposition provided for the inquest in 1987 he stated, "Prior to commencing patrol we had been briefed that a general terrorist threat existed in the ... area and we were operating a double military patrol ...". He indicated that having been dropped off by Soldier G, the soldiers made their way to the rear of the farmhouse and took up positions to observe the rear of the farmhouse. Visibility was good and it was a cold, clear night with no cloud and a good moon. He had a clear unrestricted view of outbuildings:

"We had been told there was a gunman in the vicinity of the farmhouse and that we had been instructed to take up the most suitable positions to apprehend them."

[248] In response to questioning by the NOK he confirmed that the reactive subunit was acting in support of the surveillance subunit and that, after his unit had been deployed, all reactive and surveillance soldiers on the ground were on the same network.

[249] He did not recollect a radio transmission from Soldier O and P that they had seen a man with what they believed was a gun and that he had made his way down

the disused railway line He did not have an expectation that gunmen were going to arrive when he was deployed at the hedgerow contrary to the content of his 1987 deposition.

[250] He accepted that as patrol commander he was given a degree of autonomy on how to deliver the task. It was up to him to locate the soldiers under his command, and it was up to him to decide how best to give effect to the job. He agreed that he was responsible for identifying the location of the observation post. It was up to him as to how the soldiers were deployed.

[251] He told the inquest that he did not have a belief that there was a gun in the field. The only reason that he picked that particular place was because it was one of the few areas where you could see the farmhouse because of the gap in the fence. He stated that, as he didn't know at the time where the weapons were, it would have been impossible for the unit to get closer to the house.

[252] The following question was asked of him by the NOK:

“Q: Given where Mr Bradley ended up, do you accept that your location was a relatively poor location from which to physically arrest him?

A: Yes.”

[253] It was suggested to him by the NOK that the location selected by him provided him with relatively good cover from someone coming from the farmhouse and he agreed with this proposition. He agreed that the soldiers had a good location from which to fire shots at someone appearing in the gap.

[254] It was suggested to him that the manner in which the unit deployed, namely the location, increased the likelihood that shots would be fired as he was not going to be able to physically arrest someone and thus a situation had been created whereby the unit would end up having to shoot the individual. His answer was, “no.”

[255] I am satisfied of the following matters: the operation that was carried out that evening on behalf of the military and RUC was a TCG tasked operation. The HMSU officers involved and those from SMU were trained in anti-terrorist tactics. The HMSU was a specialist unit within the RUC trained in conducting hard stops or hard arrests where the suspect was believed to be armed. The SMU consisted of a surveillance and reactive subunit. The SMU were trained in the procedure of a hard arrest situation and were instructed in the terms of the Yellow Card.

[256] HMSU was not simply a support role for the military. On this particular occasion, HMSU was responding to SMU when they had an interaction with terrorists. There had been an ongoing surveillance operation for a number of weeks

or indeed longer in the Castledawson area with the desired aim being the apprehension of PIRA ASU. The surveillance subunit was deployed that evening and when contact was made with a suspected terrorist, the reactive subunit was crashed out to effect the arrest of the ASU.

[257] HMSU operated on a “need to know” basis. On this evening HMSU was tasked in support of the military unit. This originally was a surveillance operation which developed into a reactive deployment. HMSU had deployed two vehicles on the ground with the function to support SMU and respond to whatever unfolded that evening. It transpired that the main role of the HMSU was the setting up of a cordon at the scene and the detention of two individuals until the arrival of other agencies including the CID investigation team.

[258] The only direct contact between HMSU and military personnel was between Sgt McAuley and a soldier at the scene of the incident. He confirmed that arrangements were made as per the protocol that the soldiers involved in the shooting and the weapons would be subsequently produced to police for full investigation and examination.

[259] There was a clear distinction to be made between the roles of the surveillance subunit and the reactive subunit on that evening. Soldier P indicated that the reactive subunit would be the unit more likely to be involved in either conducting an arrest or a vehicle stop. Her unit was a surveillance unit. There was a difference in the roles played by Soldiers O and P and D and E, who were also members of the surveillance subunit. Soldiers D and E had been specifically tasked with carrying out an arrest when the members of the reactive subunit deployed. I am satisfied that the decision of Soldiers O and P not to arrest Francis Bradley did not increase the likelihood that lethal force would be deployed at a later stage or that this was an inevitable result of the failure to arrest in Blackpark Road.

[260] Soldier M confirmed that the task was to arrest gunmen in possession of the weapon or weapons. SMU soldiers were trained to act on their own initiative and there was always a patrol commander. I am satisfied that the intention and plan was always to effect an arrest of armed terrorists who were members of ASU. The events which unfolded that evening necessitated the deployment of the reactive subunit extremely quickly with the desired intention always to effect a hard arrest if necessary. The degree of planning by the very nature of the events could not be carried out over a protracted period and relied upon the commander of the patrol, namely Soldier A, using his own initiative in deployment of the military personnel.

[261] The arrest plan was entirely dependent on what the military was faced with and very much what the terrorist did and the surrounding circumstances. At all stages the soldiers were trained to operate within the law and to detain terrorists who would then be formally arrested by the police. The task was carried out at very short notice and with limited information. It was a surveillance operation up until the time of contact with the deceased at the farmhouse.

[262] Soldier A accepted as patrol commander that he was given a degree of autonomy on how to deliver the task. Ultimately, it was his decision to deploy the soldiers at the gap in the hedge. It was impossible to get closer to the farmhouse without putting the soldiers at risk. Having accepted that it was a relatively poor location to effect an arrest, in reality there was nowhere else to go. I am satisfied that the location, in all the circumstances was the only viable place where the surveillance operation could be carried out without the location of the soldiers being detected by any potential terrorist arriving at the property. The positioning of the patrol behind the hedgerow also provided the soldiers with the maximum cover available and also the best opportunity to effect an arrest of the ASU which was always the desired aim and intention at the time.

[263] I am satisfied that the manner in which Soldier A deployed the unit did not increase the likelihood that shots would have to be fired and that the unit would end up having to shoot the individual or individuals that may arrive to carry out some form of terrorist action.

Movements of Francis Bradley on 18 February 1986

[264] Brian Bradley gave evidence for a second time before the inquest in April 2024. He recalled that Francis had a friend, C3, who was a frequent if not daily visitor to the family home. He recalled that a few days before Francis was shot, C3 was in the house and told Francis to remember that he had a wee job to do on the Tuesday night. The 18 February 1986 was a Tuesday night. Mr Bradley was approached two or three years ago by Seamus Laverty and Mr Laverty told him that C3 had been with him on the evening that Francis was shot and had been acting strangely throughout the evening. He said that C3 was keen to listen to radio bulletins every hour. The two of them had been at Ulster Motor Show in Belfast. He also told Mr Bradley that C3 had wanted him to take unusual routes on the return journey from Belfast which would have avoided the area close to where Francis was shot. I accept fully the account given by Mr Bradley in relation to these matters.

[265] C3 gave evidence before the inquest. He told the inquest that he became friendly with Francis Bradley in approximately 1983 after C3 had been released from Long Kesh having served a seven year sentence for Troubles related offences. He worked with Francis, and they became best friends. He would have been a frequent visitor to Francis's home and Francis would have visited his home often as well. Both he and Francis were arrested on 8 December 1985 regarding a shooting in Castledawson. He did not recall anything significant regarding Francis in the days and weeks leading up to his death.

[266] He did not speak to anyone or provide information to anyone about Francis prior to his death. He denied entirely any suggestion or inference that he provided any information to anyone which would have led to Francis's death. He did not recall telling Francis that he had a "wee job to do on the Tuesday night," which

would have been the 18 February 1986, and did not know what this could have related to.

[267] On the evening of 18 February 1986, C3, Francis, Seamus Lavery and C16 had arranged to go to Belfast to a motor show. When he arrived at C16's house, Francis had not turned up. He drove with C16 to Antrim where they picked up Seamus Lavery. C3 denied that Seamus Lavery was driving and denied that he was acting strangely throughout the evening or that he was listening to news bulletins every hour. C3 denied that he took unusual routes home which would have avoided the area close to the shooting.

[268] Seamus Lavery gave evidence before the inquest. In his statement provided to the coroner's investigator, he told the inquest that he had spoken to Brian Bradley and told him he attended the Ulster Motor show with C3 and C16. He was driving and C3 asked him to go home via Randalstown/ Portglenone. C3 wanted to listen to the news. Years later, C16 had brought up that he thought C3 had been acting strange that night. When subsequently providing oral evidence at the inquest, Lavery indicated that he wished to change parts of the statement he had provided to the coroner's investigator. He said that C3 and C16 came to his home in Antrim before going to the motor show, and he was not present in the car when it drove through Randalstown or Portglenone. I find that Seamus Lavery was a most unconvincing witness, and I give little or no weight to anything he told this inquest.

[269] Seamus Gilmore gave evidence before the inquest. He knew Francis very well and described how they went to school together and played football together. He recalled that on the evening that Francis Bradley was killed, he went to the Elk Bar and met Francis there with others. He thinks this was around 6.00pm to 7.00pm. After he left the bar, he went to McLarnon's shop which was nearby. This was a location where he stated he, "hung about messing with cars." At some stage Francis Bradley joined them and said his car needed some work done to it. Francis left in his car but returned a few minutes later and said that the back box of the exhaust had fallen off at the Elk Bar.

[270] He remembered that when Francis was at the shop, he discussed trying to set up a card game. He told Mr Gilmore that he was going with Barney McLarnon to Colm Walls' house to try and organise a game. Mr Gilmore then spent the rest of the evening driving about. He stayed about the shop until it closed. He was asked about an extract from Father Murray's notes which appeared to state that he left Francis Bradley at 7.45pm and then met him again at the football field at 8.45pm. He stated that this was possible as the football field was opposite the shop car park. About a week after the funeral of Francis Bradley, he was arrested and taken to Gough Barracks. He said that he was shown photographs of Francis Bradley's body, and he was told that this would happen to him next. He went to Father McNally and told him about everything and how the police were harassing him. He was asked by police if he had anything to do with the guns located at 60 Hillhead Road and he

denied this. He denies that he was a member of the IRA. I have considerable reservations about the evidence this witness gave before the inquest.

[271] He denied to Mr Horwell KC that he had ever been interviewed by Father Murray or that he had spoken to Bernard McLarnon about his arrest. He also stated that he didn't give evidence at the public inquiry. He was referred to an entry made by Father Murray to the effect, "Seamus Gilmore left the weapons at 7.45". He indicated that he had never met the man. He was referred to a further entry which indicated that Francis Bradley had gone to a shop for rubber gloves. He initially could think of no reason why Francis Bradley would wish to buy rubber gloves. He confirmed that he left Northern Ireland for 13 years.

[272] He was quoted in a passage from the book "The SAS in Ireland" by Raymond Murray, which contained a quote which stated that Francis Bradley was in the company of an IRA man at 8.45pm and apparently this same man left some guns behind Walls' house on the main Toome Road at 7.45pm:

"They had been left just outside the back yard on a rubbish dump beside a little house between the field and the back yard."

He stated he had never seen the book before or met Father Murray.

[273] The deposition of Bernard McLarnon, made in 1987 was read to the court under rule 17. He would have known Francis Bradley well. He described him as a neighbour and recalled one night about three weeks before 18 February 1986, he had had a card school in his house and Francis had attended. He recalled that Francis would have called to his house two or three times per week. He indicated that Francis Bradley called to his house at Moyola View on the evening of the shooting. This was sometime after 9.35pm. He didn't see Francis's car, but he supposed that he had driven to his house as he lived one and a half to two miles away. He told Bradley that he was going to Kevin Walls' house to arrange a game of cards and Francis Bradley said he would go with him. They left the house about 10.00 pm. He drove and Francis sat beside him. There was nobody else in the car. On the journey they talked about playing cards.

[274] He drove into Walls' yard and stopped the car facing the garage. They got out of the car together and they parted just about the front bumper of the car. He turned his back from Francis and went towards the front door. He didn't know where Francis was going as they never spoke, and he never made any remark or explanation. He didn't know what Francis was up to. Francis walked towards the garage. Whenever he got to the corner of the gable and the front of the house, he heard heavy gunfire. He went as fast as he could to the front door and, "rapped the door". A soldier then told him to halt and searched him. Colm Walls then came on the scene. He must have come from the back of the house, as they were both arrested

at the same time. He stated that he was never around the back of the house or any further towards the back than the driver's door of the car.

[275] He stated that Bradley started to walk away towards the back of the house after getting out of the car. He didn't know anything about the guns at the back of the house or that Francis had anything to do with them. He stated, "I want to say that I'm not in the IRA, never was and never will be." He concluded by saying that he didn't see Francis wearing gloves. He didn't hear any shouts at the time of the shooting save a shout of, "We've got one of the Bs," immediately after. His police interview notes were read under rule 17 in which he denied being at the rear of the house or being involved with the PIRA.

[276] It was also put to him in interview that he had knowledge of the weapons and was at the back of the house at the time of the shooting and had run round to the side to get into the house when the shooting started. He continually denied all those points. He was specifically told that his story did not agree with the narrative provided by the soldiers at the scene.

[277] He was released from Gough Barracks without charge after his detention.

[278] The evidence of Soldier A purports to identify two men in the gap between the farm buildings. One was a young man, and the other was an older man. At the time of the shooting McLarnon was aged 53 and Bradley was 20. Soldier A's description of the two men in his 1987 deposition is as follows:

"... I saw two men appear at a gap in between the farm buildings ... I could see these men clearly in my night sights. One was quite young with reasonably short hair. He was wearing a bomber type jacket, dark coloured, and dark trousers. The second person was elderly and slightly stooped. He was wearing a single breasted type jacket and light-coloured trousers. This particular person stood at the corner of the building on the right side of the gap ... The younger man walked through the gap and looked around in what seemed to me to be a visual check of the field and the rear of the outbuildings. The older man who remained in the farmyard also seemed to be alert and looking around. The younger man returned to the older man and had a short conversation after which the younger man returned through the gap ... the other man ran off."

[279] I am satisfied that Bernard McLarnon did have a conversation with Francis Bradley after they both left the car and that McLarnon did not go directly to the front door of the house as he claimed. The second male person who appeared at the gap

was indeed him and this was observed by Soldier A from the position behind the hedgerow.

Weather conditions (visibility and vision)

[280] An issue has arisen regarding the prevailing weather conditions and in particular as to the ambient light on the evening of 18 February 1986 and how this impacted on the vision of the members of SMU deployed at the hedgerow, when the deceased arrived at the farmhouse and lifted the rifle. The incident happened just before 10.00pm when clearly it would have been dark, subject to any light coming from the moon or stars which may have been impacted by the extent of cloud cover. The extent of moonlight, or ambient light is important as the soldiers gave evidence that the effectiveness of their night sights would have been impacted by the extent of ambient lighting. Without such lighting the night sights are not as effective.

[281] Each soldier deployed as part of the Night Standing Op has maintained that the visibility on that evening was good and not hindered by cloud cover.

[282] Soldier A in his statement made in 1986 stated that it was a cold clear night with no cloud and a good moon.

[283] Soldier B stated it was a cold crisp night with good visibility and there was little cloud.

[284] Soldier C stated that it was a cold clear night with some cloud. There was a moon and visibility was good.

[285] Soldier D stated that visibility was good, it was a cold, clear night with a slight scattering of cloud and a good moon.

[286] Soldier E stated that the evening was cool, there was good visibility. It was a clear night with few clouds and a good moon.

[287] The evidence of the soldiers is contradicted by other witnesses who arrived at the farmhouse after the shooting. The inquest in particular heard from Mr Jim Dale and from Dr Wild, meteorologists, that the conditions on the night were cloudy and consequently visibility was affected by this.

[288] Mr Patrick Eastwood made a deposition, on 2 March 1987 in which he stated:

“At 9.00pm the weather was cloudy with 7/8 cloud cover at 4,500 ft.

At 10.00pm the weather was cloudy with 7/8 cloud cover at 4,500ft.

At 11.00pm the weather was cloudy with 7/8 cloud cover at 4,500ft.

... whatever the phase of the moon there was a full cover of cloud and therefore little or no moonlight.”

[289] He also stated that the moon did not come up over the horizon until after 11.08pm. Both Dr Wild and Mr Dale refuted this assertion. His evidence as to cloud cover is accepted by both meteorologists as being accurate.

[290] Soldier A, in his evidence given before this inquest, maintained that the moon was up. He was not prepared to accept that he might be mistaken about the issue of cloud cover. When questioned by his own counsel, he stated that it was a cloudy night, but the moon was up.

[291] When the evidence of the meteorologists was put to Soldier C, he stated that the information was wrong, “I can remember the moon being up and it being cloudy”.

[292] Soldier E in his oral evidence stated:

“No I wasn’t wrong I was there ... what I remember was there was good visibility and it was a bright-bright light night ... it was fairly clear ... the visibility to me was, as of that night, what I remember ... was good”.

[293] It was put to him that the reason why he switched his torch on was to assist with visibility. He refused to accept this was the reason but did not provide any other explanation for switching it on. The NOK maintained that this action was clearly indicative of the poor visibility on the night of the shooting.

[294] Mr Dale referred the inquest to the various descriptions of the weather conditions that evening as given by the soldiers and other witnesses who arrived following the shooting, and the clear divergence between them. He concluded:

“There is no consensus as to the visibility of the moon around the time of the incident, but the available evidence does point to it being near overcast, therefore on the balance of probabilities there would likely have been no or very little moonlight at and around the time of the incident. Vertical visibilities were good but save for any artificial lighting sources it would have been pitch dark at the time of the incident.”

[295] Mr Dale rejected the soldiers’ accounts of the weather on the night:

“... there is a differential between what the soldiers are saying and what the later people are saying when they

turned up on the scene. That's fair, and you can see that quite clearly... I would suggest to the court that there is – in terms of what the soldiers are saying and what is being observed, from the various weather stations, in particular Belfast Aldergrove and the static situation, I think - I think there is an error of judgment in what the soldiers are saying.”

[296] He told the inquest that Soldier A's account of the weather conditions was almost impossible. He also rejected the account of Soldier B that there was little cloud as an inaccurate description of the events.

[297] Dr Wild in his report concluded:

“With cloudy skies however across the incident area, the moon even though present in the sky would not have been visible due to cloud cover, or at best the occasional fleeting glance at times may have been possible within that late evening period.”

[298] It has been submitted on behalf of the former soldiers that the cloud cover at Aldergrove at 21.00, 22.00 and 23.00 was 7/8 or 87.5%. This means that 1/8 or 12.5% of the sky was clear. It follows that at the incident location moonlight could have shone.

[299] Dr Wild served a second report to reflect his consideration of Mr Dale's evidence. He did not dispute the evidence of Mr Dale. He did go on to conclude as follows:

“the meteorological data available ... is not capable of determining whether or not there was a gap or gaps in the cloud cover at any particular location (such as 60 Hillhead Road, Castledawson). Furthermore, if a gap or gaps in the cloud cover, the meteorological data is also not capable of determining for how long that gap or gaps would have been present and the times at which the gap or gaps would have been present. If the moon was visible (hence the glimpses of the moon mentioned in mine and Mr Dale's reports that could have occurred from time-to-time due to gaps in the cloud cover as mentioned in our reports and as stated in the meteorological observations that evening ie 7/8 (87%) cloud cover), moonlight from it must have illuminated the location at which the moon could be seen. No available meteorological records will give the opacity of the clouds and it is outside my field to

comment on the brightness of the moon shining through clouds and/or via a clear sky on any given night.”

[300] Soldier A, in his written statement after caution made on 19 February 1986, indicates that he saw two men appear at the gap in between the farm buildings. He could see these men clearly in his night sights. As detailed at para 278 above, Soldier A gave an account of each man’s approximate age, stature, a description of each man’s attire with a detailed account as to their movements on exiting the car. When the younger man returned to the older man again through the gap, at the left hand corner, he bent down out of view behind wood and rubbish. Seconds later he stood up and he saw he was carrying a rifle in one hand.

[301] In Soldier A’s statement made in 2024, he referred to the fact that when the older man appeared at the gable end on the corner, he was able to observe him smoking a cigarette. He also recalled that there was something unusual about the younger man’s hands. They were giving out a slight glare that did not occur on naked hands.

[302] Soldier C in his written statement after-caution, made on 20 February 1986 indicates that he was using his night sights when he saw a man appear in the farmyard at the right hand corner of the gap in the outbuildings from his position. Another man appeared in the farmyard and took up a position in the middle of the gap. This person seemed to be checking and having a good look around. After he finished looking, he went back to where the second person was and seemed to have a short conversation. The person who walked into the gap and carried out the check was fairly thin. He was wearing a bomber type jacket and darkish trousers. The second man looked broad shouldered and was wearing a normal jacket. He was slouched and breathing deeply because he could see his breath in the cold air. After a short discussion the person in the bomber jacket walked through the gap in the outbuildings to just behind the left hand building where he bent down. He stood up and began walking back towards the gap but after a couple of paces he saw that he was carrying a rifle.

[303] Soldier C, in his statement made in 2024, indicated that he was using the night sight attached to his weapon to observe the area. “I recall that there was reasonable visibility while using the night sight. Night sights work best when there is some ambient light.”

[304] He no longer recalls the exact movements of the men once they appeared. There was an older man and a younger man. He recalled the younger man moved through the gap in the outbuildings, to the left of the gap from his position and behind dark objects, which he later saw to be a pile of scrap wood, in front of the outbuilding. This person ducked out of sight behind the dark area. When he stood up, he saw that he had a rifle under his control. He did not recall the exact position of the young man, or which hand was gripping which part of the weapon.

[305] I have concentrated on Soldier C and A's accounts as these were the two soldiers whose evidence suggests they fired shots that evening, and both were placed at the gap in the hedgerow. They were the two soldiers with the best view of the actions of Francis Bradley at the rear of the farmhouse. The evidence from Gavin Magill, Consulting Engineer, was that the distance from the gap in the hedgerow to the body of the deceased was 30 metres and thus the distance over which these two soldiers were carrying out their observations. I included a summary note of Mr Magill's report and evidence found at Appendix 2.

[306] I have considered the expert evidence in this aspect of the inquest, and I have also considered what the soldiers have said in respect of their observations from behind the gap in the hedge. I am satisfied that the weather conditions as described by Mr Dale do not accord with the evidence of the soldiers who were at the scene. However, I also must consider the very detailed descriptions as given by Soldiers A and C of the two men who appeared in the gap and the actions of both as observed by the soldiers. I am satisfied that with both using their night sights to observe the unfolding scene at the rear of the outbuilding, their vision and the light available was sufficient to make the observations which they have described in considerable detail.

Pathology and ballistics evidence

[307] The inquest received evidence from a number of ballistic and pathology expert. Dr Derek Carson, former Deputy State Pathologist, who carried out the autopsy on Mr Bradley's body on 19 February 1986. His evidence was admitted under rule 17. Professor Jack Crane, Professor of Forensic Medicine and Consultant Forensic Pathologist, reviewed the pathology evidence on behalf of the coroner. Mr Mark Mastaglio, forensic scientist, reviewed the ballistics evidence on behalf of the coroner. Ms Ann Kiernan, forensic scientist was retained by the NOK and reviewed the ballistics evidence in the case. Mark Mastaglio and Ann Kiernan produced a joint note in relation to the ballistics evidence. Professor Karim Brohi, Professor of Trauma Sciences and Mr Michael McCormack, Consultant Orthopaedic Surgeon, also gave evidence principally about the impact of the shot which shattered the pelvis of the deceased.

[308] As I have already said, Dr Carson conducted the autopsy on Mr Bradley's body on 19 February 1986 and produced the postmortem report on the same date. He gave evidence at the first inquest into the death of Francis Bradley. The cause of death was due to lacerations of the heart, right lung, liver, and intestines due to gunshot wounds of the trunk.

[309] Dr Carson opined:

“Death was a result of gunshot wounds. In all he appeared to have been struck by 8 bullets, but there was considerable variation in the position of the wounds and

in the direction of the bullet tracks. Three wounds were apparently in one group, centred through the umbilicus. From here the bullets had passed sharply upwards through the abdomen and chest causing laceration of the intestines, stomach, liver, heart and right lung. The internal bleeding from these injuries would have caused rapid death. Two of these bullets had left the body, through the back of the right shoulder and upper arm whilst the third was found lodged and distorted in the breast bone. Considering the direction of these wound tracks the deceased may have been lying on his back on the ground when the three shots were discharged.

Another bullet had ploughed a furrow across the inner side of the left arm and another had caused a similar injury on the outer side of the left knee. Because these bullets had not caused separate entrance and exit wounds, it was not clear which direction they had been travelling in relation to the deceased but, with the body upright, their direction was more or less horizontal.

A sixth bullet had passed through the soft tissues of the left forearm entering its radial border and passing upwards and backwards at about 45 degrees and slightly to the left, before leaving the back of the forearm below the elbow.

A seventh bullet had entered the soft tissues near the inner aspect of the left upper buttock behind and it passed upwards and to the right at 40 degrees to the horizontal plane, leaving through the back of the right loin. This wound track was also rather peculiar in direction, suggesting that the deceased might have been on his knees at the time.

The eighth bullet had entered the inner part of the left upper thigh causing a rather irregular entrance wound. It had passed sharply upwards and to the left at 45 degrees to the horizontal plane, shattering the pelvis and fragmenting and causing considerable bleeding into the tissues around the groin. This wound track was also unusual in direction and could have been caused when the deceased was bending over or on his knees."

Injury caused to pelvis by bullet

[310] Dr Carson's report records that some fragments of bullets were recovered from the pelvis area which were then handed to Constable Cairns.

[311] Mr Brian Thompson, forensic scientist of Northern Ireland Forensic Science Laboratory (NIFSL), examined metal fragments from the left side of the pelvis in 1986. He concluded that the fragments would indicate being from a bullet fired from rifle item 59. This item is attributed to Soldier A. Both Ms Kiernan and Mr Mastaglio agree:

"The M16A1 attributed to Soldier A had most probably fired the bullet base fragment JLC19 [from the left side of Mr Bradley's pelvis]. Ms Kiernan's opinion is that the attribution to Soldier A's M16A1 was definitive whilst Mr Mastaglio, due to the distortion of the fragment and surviving rifling detail present, is slightly more cautious in his assessment. His opinion is that there is very strong evidence to suggest that the fragment had been discharged in Soldier A's M16A1 as opposed to Soldier C's M16A1."

[312] Mr Mastaglio, in his oral evidence, stated that, "given that we have two choices here, choices between Soldier A's M16 and Soldier C's M16, the marks on that fragment are far more characteristic of Soldier A's than they are of Soldier C's M16." He confirmed that, on the balance of probabilities, the bullet fragments were attributable to Soldier A's gun.

[313] Neither the ballistics nor pathology evidence definitively establishes which shot was first in the sequence of shots. Both Soldier A and Soldier C gave evidence that it was Soldier A who fired a single shot from the hedgerow and that Soldier C fired a number of shots at or about the same time and from the same location.

[314] Having considered the evidence from Soldier A and Soldier C as to the sequence of firing, I am satisfied that Soldier A fired one shot and that Soldier C fired a total of 20 shots from various locations. I accept the submission from the NOK that there is no evidential basis upon which Soldier A's contention that he fired the first shot, or one of the first shots, can properly be challenged.

Position of deceased when he sustained injury to pelvis

[315] In relation to the injury sustained to Mr Bradley's pelvis, Dr Carson stated in his deposition, "that wound could not have been sustained when the deceased was standing facing the firer."

[316] Professor Crane states in his report, "the position of the entrance wound and the track of the bullet in this case would indicate that he had not been upright at the

time.” In his oral evidence he stated, “Mr Bradley could not have been standing upright when that wound was sustained.”

[317] Mr Mastaglio stated in his oral evidence, “I cannot foresee and I cannot consider how you get that steep upwards wound track if Mr Bradley was upright.” Ms Kiernan agreed with this.

[318] Dr Carson, in his deposition stated as follows, “One possibility is that the deceased was bent over with his trunk more or less parallel to the ground and the firer was behind and to his right. The deceased would have had his back obliquely towards the firer. Prompt medical intervention might have saved his life so far as this wound is concerned. Another alternative is that the deceased was lying on his back and this wound was caused by a bullet ricocheting off the ground. The wound is consistent with this but less likely.” He described the first scenario as the most likely position.

[319] Ms Kiernan agreed with Dr Carson that it is more likely that Francis Bradley was bent over, more or less parallel to the ground, with his back towards the firer when he was shot in the pelvis area.

[320] Mr Mastaglio also accepted that the position preferred by Dr Carson was possible. He indicated that any posture whereby the wound track could be duplicated was possible. He was prepared to defer to the opinion of Professor Crane on this issue.

[321] Professor Crane, initially in his report stated that this injury could have been sustained when the deceased was lying on his back on the ground, but in his oral testimony accepted that the position, as put forward by Dr Carson and Ms Kiernan, to be the most likely and therefore a possibility.

[322] Professor Crane also expressed the view that Mr Bradley was possibly bent over, facing the shooter, “the wound on the inner aspect of the upper left thigh was in a somewhat unusual position. Now, when one considers the position of the wound, and the track that that bullet took, Mr Bradley could not have been standing upright when that wound was sustained. It is possible that Mr Bradley was facing the shooter but not in an upright position. It seems less likely that he would have been on his back, or with his back towards the shooter because the entrance wound is somewhat towards the front than the back of the body, but in saying that one always has to take account of the possibility and the variability of movement of the limbs.”

[323] Soldier A’s account of the deceased’s position is broadly consistent with the findings of Dr Carson:

“A: When I shouted ‘halt’ the weapon went from one hand to the second hand, he started to turn, and that’s when I fired.

Q: Started to turn, is that right? So he wasn’t even pointing the weapon at you at this stage?

A: No.

Q: He had started to turn, is that right?

A: Yes, as far as I can remember, yes.”

[324] Professor Brohi concluded that Mr Bradley must have been in essentially the same position when he sustained all of the wounds. He rejected the evidence of the ballistics and pathology experts when he came to the buttocks shot discussed further below, stating that this shot may have been sustained when Mr Bradley was lying on his right side. His evidence was to the effect that Mr Bradley was on the ground for the entirety of the shots. He did, however, defer to the ballistics and pathology experts and I therefore attach little or no weight to his evidence in respect of this issue.

[325] In her report, Ms Kiernan opined that the wounds sustained by Mr Bradley were consistent with direct impacts by stable bullets. Mr Mastaglio also stated the entry wound to the upper inner aspect of the left thigh was more typical of a direct shot rather than a ricocheted bullet. Professor Crane also believed that it was more likely to have been a direct shot, and indeed explained how the various entrance wounds could have been occasioned by direct shots. I am satisfied that this particular injury to the pelvis area was sustained by a direct shot and not a ricochet. I am also satisfied that all gunshot wounds sustained by Mr Bradley were as a result of direct shots.

Range of movement following on from the pelvis shot

[326] Soldier A’s evidence is that Francis Bradley fell following the first shots. In his after-caution statement in 1986 he stated as follows “... I fired one aimed shot. Almost instantaneously I heard a burst of shots fired from my right and I saw the gunman fall.” Soldier A does not see Bradley after this.

[327] Soldier C, in his after-caution statement in 1986, describes Bradley as having gone to ground: “During this burst of gunfire the gunman went to ground.”

[328] There is no evidence from any soldier present at the scene that Francis Bradley stood up after he sustained the first shots.

[329] Dr Carson, in his deposition, stated as follows:

“If it was sustained in what I regard as being the more likely alternative, namely with the deceased bent over with his trunk parallel to the ground and the firer behind him and obliquely to his right, I would expect the force of the bullet’s impact to have thrown the deceased forward with considerable force. After being struck thus, although the deceased would have been in considerable pain, I can see no reason why he would not have risen again as the wound did not involve the joint.”

[330] Professor Crane did not agree with this assessment made by Dr Carson:

“A: Well, the reason why I disagree was because he described the pelvis as having shattered, and such a pelvic injury, to me, I think would have caused considerable difficulty in the deceased moving and standing upright.”

This was one of the issues which Professor Brohi and Mr McCormack were asked to address.

[331] Professor Brohi stated that it was “mechanically possible” for Mr Bradley to move with the injuries but not probable. Mr McCormack stated, “In his report Professor Brohi felt that it may have been possible for Mr Bradley to attempt to sit up or roll on his side. Such movements would have required use of abdominal musculature and trunk muscles and whilst possible would not be probable as these movements would have been difficult and less likely.”

[332] In addressing Dr Carson’s postmortem report he further stated:

“Hip movement, however, would require use of muscles attaching to the pelvis and as per my report. Movement of the hip would be affected by lack of mechanical purchase of these muscles and the pain engendered by such attempts, such movement, though possible, would be less likely and even ineffectual.”

[333] Professor Brohi stated that there was nothing in Mr McCormack’s report that he disagreed with. He acknowledged that in his field of work he would take expert advice and treatment from orthopaedic surgeons as he did not per se manage orthopaedic injuries.

[334] Mr McCormack dealt specifically with his use of the word “ineffectual”.

“By ineffectual, it may be – two things really. Firstly, it may not move at all, the first thing. That’s the worst-case scenario. Alternatively, even if some of the muscles are damaged and others are not, they are not in balance anymore. So purposeful movement with intent may be difficult, trying to balance the movement of the hip.” He concluded by saying “getting to your feet would be difficult”.

[335] The NOK submit that the totality of the evidence suggests it is possible but not probable that Francis Bradley could have got to his feet. There is no evidence from the soldiers present that he in fact did so.

[336] In relation to the injury to the pelvis, I am satisfied that this shot was fired by Soldier A. It was one of the first injuries sustained by Francis Bradley and resulted in the shattering of the pelvis. It was caused by a direct shot. It was sustained when the deceased was not upright and, on the balance of probabilities, he was presenting his rear to the shooter. The injury would have had a significant impact on his ability thereafter to stand up.

Wound to buttock

[337] This was a superficial wound and was not life threatening. The evidence clearly demonstrates that Soldier C fired this shot which struck the deceased. Soldier A fired one shot whilst Soldier C fired the remaining shots which amounted to 20 in total.

[338] Mr Thompson concluded in his report that, “a total of twenty spent cases therefore were discharged by the rifle item 60 and one spent case was discharged by the rifle item 59”.

[339] Ms Kiernan and Mr Mastaglio concluded in their joint note that in total 21 shots were fired by the soldiers of which twenty came from the rifle attributed to Soldier C: M16A1.

[340] All experts are in agreement that Mr Bradley was presenting his back to the shooter when he was hit with this gunshot.

[341] Dr Carson, in his deposition, indicated that the deceased was almost certainly kneeling when this was sustained. In the first inquest, he stated that the deceased was likely to be on his knees, bending forward and the bullet would have come from behind him and to his left.

[342] Professor Crane in his oral evidence stated, “he must have been facing away from the shooter, ie his back must have been presented to the shooter.”

[343] Mr Mastaglio and Ms Kiernan were also of the same view, “Mr Bradley was bent over facing away from the shooter”.

[344] Professor Crane stated in his report that the steep upwards inclination of the wound indicated that Mr Bradley had probably been kneeling on his hands and knees ie on all fours, when shot.

[345] Mr Mastaglio also agreed that he may have been on all fours when shot in this region.

Wounds to various limbs

[346] Dr Carson described the injuries to Mr Bradley’s limbs as follows:

“Another bullet had ploughed a furrow across the inner side of the left upper arm and another had caused a similar injury on the outer side of the left knee. Because these bullets had not caused separate entrance and exit wounds it was not clear which direction they had been travelling in relation to the deceased but, with the body upright, their direction was more or less horizontal. A sixth bullet had passed through the soft tissues of the left forearm, entering its radial border and passing upwards and backwards at about 45 degrees, and slightly to the left, before leaving the back of the forearm below the elbow.”

[347] There is less clarity about the positioning of Mr Bradley when he was hit with these shots. None of these shots were life threatening. I am satisfied that all of these shots were fired by Soldier C and were direct shots as confirmed by Ms Kiernan. Mr Mastaglio indicated that these wounds could have been caused by direct shots.

[348] Ms Kiernan concluded that, based on her consideration of the wound paths alongside the damage to the clothing, the direction of the bullets is consistent with shots fired predominantly from the rear of the deceased and from the left. This account has not been contradicted by any of the experts.

Wounds to abdomen

[349] These wounds were described by Dr Carson in his deposition as follows:

“Three wounds were apparently in one group, centred around the umbilicus. From here the bullets had passed sharply upwards through the abdomen and chest causing laceration of the intestines, stomach, liver, heart and right lung. The internal bleeding from these injuries would

have caused rapid death ... considering the direction of these wound tracks the deceased may have been lying on his back on the ground when the three shots were discharged."

He further noted, "since they were rapidly fatal it is unlikely that the deceased moved after they were sustained and hence they were almost certainly the last wounds sustained."

[350] Professor Crane also concluded that the wounds would have caused very rapid death and agreed that Mr Bradley would not have been capable of any movement after they were sustained.

[351] Mr Mastaglio confirmed that these wounds were exactly what you would expect from direct shots and consistent with a burst of fire ie in automatic mode.

[352] The pathology and ballistic experts are in agreement, that when Francis Bradley was hit by these three gunshots it is likely that he had been lying on his back on the ground. Mr Mastaglio, did postulate a scenario whereby Bradley was falling backwards. He expressly deferred to Professor Crane in acknowledging that this was an issue in respect of which the pathologists were better placed to assist the coroner.

[353] Professor Crane stated as follows in his report, "The tracks of these bullets were directed fairly sharply upwards and could not be reconciled with the deceased being upright at the time the wounds were inflicted. I am of the opinion that he was likely lying on his back, on the ground, when these bullet wounds were sustained."

[354] Ms Kiernan, having considered the possibility that the deceased may have been falling backwards, concluded that it was more likely that the shots were fired with Mr Bradley lying face upwards on the ground.

[355] As for the distance from Francis Bradley when Soldier C fired the final three shots, the only clear indication is that no shot was discharged at very close range. Due to the absence of firearms residue discharge on Bradley's clothes as examined by the forensic scientist Mr Thompson the shortest distance must have been greater than 60cms. The distance was probably in the region of three to four metres away when the final shots were fired.

[356] Professor Brohi is of the opinion that following the thigh and pelvic injury, Mr Bradley was capable of standing and when supine could have raised his upper body. He is also of the opinion that Francis Bradley could have held a rifle in both hands, pointed it and fired it. He stated as follows:

"Q: Would he have been capable of standing after the pelvic injury?"

- A: Mechanically, yes.
- Q: You state in your report that he would've been capable - if lying supine, he would have been capable of bringing himself up. To what degree?
- A: I think it's hard to know but most of when you sit up is your abdominal muscles and your and hips flex and the, certainly the majority of his abdominal musculature is intact. He has his full right side intact. Both his arms are fully functional so, at least to 45 degrees I would estimate, but again, it's not specifically my area of expertise.
- Q: With that injury, would he have been capable of holding a rifle in two hands?
- A: Well, I don't think the pelvic injury affects his hands.
- Q: I'm not surprised you say that but I'm asking the question for a very particular reason. He would have been mechanically capable of doing that?
- A: The injury to his pelvis would not mechanically have affected his hands.
- Q: Pointing a rifle?
- A: Yes.
- Q: And capable of firing a rifle?
- A: Yes."

[357] Professor Crane was asked by Mr Horwell KC the following questions:

- "Q: Up until the final three fatal shots, Francis Bradley would have been capable - capable of holding a rifle?
- A: Yes, he would.
- Q: And pointing a rifle?
- A: Yes."

Privilege against self-incrimination

[358] Soldier C invoked his privilege against self-incrimination under rule 9 of the 1963 Rules during the inquest when asked questions regarding the shooting of Francis Bradley.

[359] Rule 9 provides:

- “(1) No witness at an inquest shall be obliged to answer any question tending to incriminate himself or his spouse.
- (2) Where it appears to the coroner that a witness has been asked such a question, the coroner shall inform the witness that he may refuse to answer.”

[360] Soldier C has also refused to adopt the contents of his 1986 after caution witness statement. He confirmed to the NOK that this was on the basis of his privilege against self-incrimination. Whilst Soldier C elected to rely upon his privilege against self-incrimination and refused to adopt his statement made in 1986, in so doing he has effectively provided no explanation as to why he fired the shots. No other soldier gives an account which Soldier C can seek to rely upon.

[361] Soldier C signed his statement made after caution in 1986 and I am satisfied having heard the evidence of DI Nicholl that this is the statement made by him on 20 February 1986. Accordingly, I have due regard as to its contents in determining the actions of Soldier C that evening.

[362] While he has the right of course to assert his privilege against self-incrimination, he is potentially an extremely important witness because he was the soldier who discharged 20 rounds and the three shots which led ultimately to the death of Francis Bradley. Only Soldier C could have told me; why he decided to discharge these rounds, the manner in which he did so, and his intention when doing so. By asserting his right against self-incrimination, I have been denied a significant piece of evidence of considerable importance.

[363] Accordingly, in making my findings as to what occurred in this matter, I wish to make it clear that I have taken into account the contents of Soldier C's statement made under caution at his RUC interview on 20 February 1986. I have not had the benefit of hearing substantive oral testimony as to the full extent of his actual recollection. To the extent that any of my findings are expressly or impliedly critical of Soldier C, I wish to make it clear that in so finding I am not punishing the witness for asserting his privilege against self-incrimination. I also do not draw any adverse inference against him for his reliance upon his right to assert privilege against self-incrimination.

Legal professional privilege

[364] There are two types of legal professional privilege, legal advice privilege and litigation privilege. So far as the latter is concerned, the Court of Appeal has ruled that litigation privilege does not apply in inquests, *Ketcher & Anothers' Application* [2020] NICA 31. Legal advice privilege applies to communications between a client and his legal adviser, including any instructions that either Soldiers C or E gave to their lawyers.

[365] In this instance, the solicitors for Soldiers C and E disclosed to the PIPS and to the inquest the letters of instruction to Professor Brohi. These letters purport to contain instructions from Soldiers C and E about events relating to the shooting of Francis Bradley by Soldier C.

[366] The chronology of events is as follows:

- (i) On 1 January 2024, Devonshires Solicitors instructed Professor Brohi, to provide them with expert assistance in relation to two medical questions. The letter of instruction contained express statements as to what Soldiers C and E would say in evidence. The Professor was instructed not to provide a written report but to attend a consultation with instructing solicitors.
- (ii) On 15 February 2024, Devonshires provided Professor Brohi with a formal letter of instruction. This letter contained express statements as to what Soldier C would say in evidence. All references to what Soldier E would say had been removed.
- (iii) On 26 February 2024, Devonshires served Professor Brohi's report on the PIPS and the coroner. Once that report was served, the letters of instruction became disclosable to all PIPs and the coroner.
- (iv) On 3 March 2024, the letter of instruction dated 15 January 2024 was served on the PIPs.
- (v) On 5 March 2024, the letter of instruction dated 15 February 2024, was served on the PIPs. Both senior counsel representing Soldier C were copied into the relevant email.
- (vi) On 5 March 2024, Soldier E gave evidence and was questioned about the contents of the first letter of instruction of 15 January 2024. No objection was taken to the questioning of the witness on this basis.
- (vii) On 6 March 2024, Soldier C gave evidence and was questioned as to the contents of both letters of instruction. No objection was taken to the questioning of the witness on this basis.

[367] In respect of Soldier C, his response to the contents of the letter of instruction being put to him as representing his instructions was to claim privilege against self-incrimination. He confirmed that he did speak to his lawyer in respect of the letters but that the first time he saw them was when he was giving evidence on 6 March 2024. Soldier E rejected any suggestion that the instructions attributed to him in the letter were his instructions.

[368] I have come to the view that the contents of the letters reflect both the instructions of Soldier C and Soldier E, and that I am entitled to have regard to those instructions in evaluating their evidence in this inquest. I also have concluded that the privilege as to the contents of the letter of instruction which included the express instructions of Soldier C and Soldier E has been waived.

[369] Legal professional privilege can be lost through the actions of legal advisors divorced from their direct instructions, and the implied authority of both solicitors and counsel to conduct litigation on behalf of their client extends to a waiver of privilege whether or not the client expressly authorised that waiver. In this particular instance there was no attempt by the legal advisors on behalf of either Soldier C or E to restrict cross-examination by the NOK in respect of the instructions received from both of them. I therefore take into account those matters referred to in the letters when considering the evidence in the inquest surrounding the firing of the shots by Soldier C and the actions of Soldier E.

The Yellow Card

[370] The Yellow Card was the document setting out the rules of engagement that soldiers were obliged to comply with. The Ministry of Defence (MOD) confirmed via their solicitor that the Yellow Card in operation at the time of Francis Bradley's death was the Yellow Card dated 1 January 1981, marked with an army code number 70771. Soldier A confirmed in his evidence that he was familiar with the Yellow Card. The Yellow Card provides:

"Challenging

3. A challenge MUST be given before opening fire unless:
 - a. to do so would increase the risk of death or grave injury to you or any other person.
 - b. you or others in the immediate vicinity are being engaged by terrorists.
4. You are to challenge by shouting:

'ARMY: STOP OR I FIRE' or words to that effect.

Opening fire

5. You may only open fire against a person:
 - a. If he* is committing or about to commit an act LIKELY TO ENDANGER LIFE, AND THERE IS NO OTHER WAY TO PREVENT THE DANGER. The following are some examples of acts where life could be endangered, dependent always upon the circumstances:
 - (1) firing or being about to fire a weapon
 - (2) planting, detonating or throwing an explosive device
 - (3) deliberately driving a vehicle at a person and there is no other way of stopping him*.

*'She' can be read instead of 'he' if applicable.

6. If you have to open fire you should:
 - a. fire only aimed shots,
 - b. fire no more rounds than are necessary.
 - c. take all reasonable precautions not to injure anyone other than your target."

[371] The Yellow Card is not a statement of law but is a relevant matter to take into account in determining whether, on any given occasion, the actions of the soldiers engaging in lethal force were justified.

[372] While a breach of the Yellow Card is not determinative as to whether Soldier A had an honest belief that his life, or those of his colleagues, was in danger, non-compliance with the Yellow Card is a matter which I am entitled to have regard to in evaluating that issue. The same issue applies equally to Soldier C.

[373] In the matter of an *Inquest into the death of Kathleen Thompson* [2022] NICoroner1 it was stated by Her Honour Judge Crawford:

“It must be remembered that the Yellow Card contained guidance which was general in nature and was not prescriptive. Any consideration of the use of force is an intensely fact specific exercise. Nonetheless, the issue as to whether there was adherence to the guidance is germane to the question of justification. Firing otherwise than in accordance with the Yellow Card may tend to suggest that the use of force was not justified. Similarly, firing in accordance with the Yellow Card may tend to suggest that the use of force was justified. Again, the final analysis is fact specific.”

Events at 60 Hillhead Road

[374] I intend to deal with the evidence of each soldier who was positioned behind the hedgerow at 60 Hillhead Road in turn, in respect of the shooting which took place at that location.

[375] Soldier D in the inquest in 1987, indicated that he heard a cry of, “halt” and a short burst of gunfire and then he moved to the front of the farmhouse. He said that at the third burst of gunfire he took cover behind a car halfway along the building. He said that he was at the front of the house when he heard the fourth burst of gunfire.

[376] Soldier D was positioned to the right of Soldier E and to the left of Soldier B when positioned behind the hedge.

[377] Soldier D in his statement in 2024, confirmed that his statement made shortly after the shooting, accurately records what he said at the time, and this is the best evidence he can give of his involvement in the operation. His recollection now is a series of snapshots. He recalls being behind a thick hedge with Soldier E near him. The next memory he has is running from the hedge. He recalls seeing someone at the front of a house and shouting stand still. He does not remember hearing gunshots.

[378] In his 1987 deposition, he stated that he made his way to position at the rear of a farmhouse where we had been told there were gunmen. His task was to apprehend them. He and Soldier E were positioned at the junction of two hedges at the rear of the farmhouse. He was covering the rear and side with Soldier E. To his right were Soldiers A, B and C. He hadn’t been in position long when he heard a cry of halt from the group of soldiers on his right. The next thing he heard was a short burst of gunfire and following this there was a shout of “there’s a runner going right.” Soldier B and himself moved to the left to a suitable crossing point and climbed the fence. There was another short burst of gunfire. They both ran down alongside a hedge and Soldier D took cover behind a parked car. He heard another burst of gunfire. Soldier B was somewhere to his rear and left. He then moved to the

front of the farmhouse and saw two men at the front door. These men were Colm Walls and Bernard McLarnon. He then heard another burst of gunfire.

[379] He confirmed to the NOK that he saw no action on the part of anyone that he encountered that night that would have justified him firing shots.

[380] Soldier B in his statement of 2024, indicated that he did not recall the deployment or the event, "I do not recall what the other soldiers did, or what I did and saw. It's all gone. I do not recall who fired or any firing myself. Obviously there was firing but I don't remember it after all these years ... I have to rely on my statement from 1986."

[381] In his deposition of February 1987, he stated that he saw through his night sight a man appearing at the rear of the side of the gap, "the person in the field returned to the other one and a couple of seconds later the same one turned and went back into the field to the left corner of the outhouse. I saw him bend down out of sight and I concentrated my vision on the other person. Seconds after this I heard one of my colleagues' shout 'Halt' and that followed by a single shot simultaneously with a burst of gunfire." The person Soldier B was concentrating on ran out of view. He then ran off to the left with Soldier D and went over a barbed wire fence. He crossed a ditch and heard a further burst of shots. He continued across rough ground and heard a further burst of gunfire as he followed Soldier D to the front of the farmhouse.

[382] Soldier B in a handwritten addition to the deposition stated, "The evidence I heard indicates that C did all the shooting, after the leader A fired his first shot, but I don't know that of my own knowledge. The single shot was fired first followed by the burst of gunfire."

[383] Soldier B, in the inquest in 1987, indicated that he had his night sight on his gun and had a torch attached to his weapon. He agreed that Soldier E did not have any night sight. He said that Soldier A told him that there was a probability of gunmen in the area of the farmhouse. There was no information about guns in the particular field. He confirmed that Soldier A put them into position. He said that as people passed through the gap in the out houses, he could see them without night sights. He stated that he saw a person bend down. He concentrated his vision on the other person. He did not see the deceased carrying or holding a gun. He said that from the deceased bending down to the initial shout of halt was between six and ten seconds. He said he thought that A shouted halt, he heard a single shot, before the burst of gunfire. He said that as he was crossing a ditch, he heard a further burst of shots and that this was the second burst of shots that he heard. He said Soldier D was on his right as he ran to the front of the house. Two men were detained there. He went to the rear again and found two obvious weapons. Soldier C was with him at that stage. He never touched the deceased and found car keys lying beside the body. The deceased had a gun to his left side. He did not check to see if he was alive or dead. The deceased was wearing gloves.

[384] Soldier E was cross examined by Mr Liam McNally on behalf of the NOK in the inquest in 1987. He confirmed that he had no special role. He said he had a torch on his gun, and he had no particular role because he had the torch. He had been positioned there by Soldier A. He was told by Soldier A that gunmen were operating in the area, but he didn't mention any particular area. He said there was no stipulation as to apprehending the alleged terrorists, dead or alive. They were simply to be apprehended. He said he was not told to be careful to get terrorists alive, and he was told just to apprehend them. He was not aware of any discussions as to how to apprehend the alleged terrorists. He had no view of the gap.

[385] He said they waited at the scene about 10 to 15 minutes before the men arrived. He said the hedge was in his way and he couldn't see through it into the field behind the outhouse. He said he heard a cry of halt from Soldier A and that Soldiers A, B and C were on his right. He said that he did not hear anyone say, "drop the weapon", all he heard was halt and the burst of gunfire. He did not know who fired the second burst of shots. He saw Soldier C's stance. His legs were prostrate, his arms raised, and his weapon raised, pointing to the left of the gap. He said that before he moved, he was interested in the field to the west. Prior to burst three, he turned on his torch.

[386] He said he was about 30 to 35 yards away from the deceased at the time. He said that he put on the torch and scanned the area where the third bursts of shots had been directed. He said that when he turned on the torch, he saw rubble and wood initially, and that he was stationary when he switched on the torch. He said that he considered himself to be in danger but accepted the risk. He only saw the deceased as he ran through the gap. He said that after the fourth burst he ran through the gap. He said that Soldiers A and C fired, and that Soldiers D and B went to the left and that Soldiers A and D went to the right. He said that it wasn't necessarily Soldier A who had to shout but that Soldier A took the major decisions as to whether or not to shout. He couldn't say if Soldier A fired one single shot first. He said he knew that someone fired a second burst and that he now knew it to be Soldier C. He accepted that Soldier A and himself went to join Soldier C and that Soldier C had already fired two bursts.

[387] He stated that the third burst was fired from points 15 and 16 on the map. He wasn't aware of A running to the corner of the building where the older man had been standing. He said that he wasn't ordered to put the torch on and wasn't ordered to shine it on the body. He denied that he shone the torch on the body so that C could shoot the deceased. He said he was 30 yards away from the deceased on the firing of the final bursts of shots, burst four.

[388] In his statement made in 2024, Soldier E confirmed that he was a member of SMU surveillance subunit. He confirmed that this was a TCG tasking and TCG wanted the terrorists who were going to receive these weapons to be arrested. This was called a hard arrest and would be undertaken by the reactive subunit of SMU.

[389] He stated that when they got to the area of the farmhouse, they laid up behind a thick hedge at the back of the house and garage. In his 1987 deposition, he stated that the moon was out. He does not recall this level of detail now but believes the moon was out. He states that he was to the left-hand side of the hedge, and he was in a covering role. He was there perhaps five to ten minutes when he heard one of his colleagues' shout, 'Halt'. He stated that the best evidence he could give after hearing the word halt was by reference to his 1986 written statement after-caution. Over the years his recollection of this event has clearly deteriorated.

[390] In his deposition of 1987 he stated that prior to commencing the patrol, they had been briefed that a general terrorist threat existed in the Castledawson area. His task was to apprehend gunmen who were operating in the area. Soldier A, B and C were positioned to the rear of the hedge to his right. He heard a cry of "Halt" coming from Soldier A. This was followed by a burst of gunfire and following the fire a shout of "there's a runner going right." He moved to his right to accompany Soldier A who was unable to get through the hedge. There was a second burst of gunfire, and they started to return to their previous position. Soldier C then shouted he was going forward and entered the field. Soldier A followed to the right of C and was followed by E.

[391] He then heard a short burst of gunfire and saw Soldier C had fired to the outbuilding to the left of the gap. He then switched on his torch, which was attached to the rifle, and began scanning the area to his front, and particularly the direction of the outbuilding where the shots had been directed. At this stage, Soldier C had moved further to the right and fired another burst of shots in the same area. As he moved forward towards the gap in the outbuildings, he saw a body on the left on the ground. He saw a rifle beside the body on the left-hand side.

[392] In his evidence to this inquest he confirmed that he was supporting Soldier C when he entered the field. He confirmed that a hard arrest does not include having to shoot at the suspect. He was asked about the visibility and the fact that he stated that the moon was out. It was suggested to him that the weather experts had indicated that cloud cover was 87% and that visibility would not have been good, He responded, "No, I wasn't wrong, I was there, and I can only remember... what I remember, and that - what I remember was. there was good visibility, and it was a bright - bright light night."

[393] He couldn't recollect as to why he had a torch attachment to his rifle while some of his colleagues had night sights. He could not recollect how far he was away from Soldier C when in the field. It was suggested to him he turned the torch on because visibility was poor: "... I don't know why I turned on the torch, but I wouldn't have thought that would have been the case, no ... the visibility was good but, you know, there was - it was - I don't know why, I mean I can't recollect the reasons as to - to - to why I turned the torch on."

[394] He was asked if he saw Mr Bradley alive, moving around, taking actions prior to him being shot dead. His answer was “no”. He was asked why he didn’t see him and was it due to the poor visibility. His answer was “no.”

[395] He did not consider that the location at which he and colleagues were positioned ensured that a physical arrest could not take place, “I don’t think that’s a realistic proposal you’re putting forward to me.” He told the NOK that he didn’t know there was going to be gunmen at the back of the farm. He stated that he had no recollection of what the plan was, or if there was one. He again confirmed that it was a clear night with few clouds and a good moon. He accepted that the purpose of carrying a torch was to see into an area which is dark and confirmed he didn’t use the torch until towards the end of the incident and that the location chosen provided cover to the soldiers.

[396] He had no recollection of any of the soldiers lying down. It was put to him by the NOK that from his position behind the hedge he was not a good position to apprehend gunmen but was a good position to shoot gunmen if they appeared: “no, I don’t recognise that question.” He didn’t recall Soldier A shooting at all and in his statement, he said that it was Soldier C. He didn’t see anything that gave justification for him to fire any rounds but couldn’t speak for the other soldiers. He agreed that as he moved alongside Soldier C, he couldn’t see what he was shooting at or why he was shooting.

[397] He confirmed to the NOK that when Soldier C fired the third burst of shots, he used his torch to light up the area where Soldier C was firing because he wanted to see what he was firing at: “maybe it was instinctive to turn the torch on but I can’t recollect as to why I turned the torch on ... I can only surmise that some areas may have been in shadow from - but I can’t recollect if that was the reason why I turned it on.” He confirmed that Soldier C then fired a fourth burst of fire.

[398] He was asked by the NOK if he ever suggested that Francis Bradley was lying on his back with a weapon by his side trying to pick it up: “Not to my recollection, I can’t recall.” He was asked if he ever suggested that Bradley was trying to sit up and search for a weapon: “I can’t recall ...”. He confirmed he had not said this in his 1986 statement. He was asked if he had ever given evidence or given an account that Francis Bradley was trying to get into a position to fire a live round at him: “Not to my recollection, no.” He was asked if he ever gave an account of events that he took off the safety catch and was “about to fire shots.” “Ma’am I can’t remember or recall anything like that.” These matters were all referred to by Soldier E’s solicitor in the letter of instruction of 15 January 2024 addressed to Professor Brohi.

[399] Soldier E explained that he had no recollection of this and couldn’t comment on it. He could only rely on his evidence given in 1986. He stated that the details in the letter to Professor Brohi were not his evidence. He stated his evidence was as 1986.

“Q: Is it not your evidence that you saw Mr Bradley attempt to pick up a weapon and move into a sitting position? That is not your evidence?”

A: It’s not my evidence, no, my evidence is as 1986.

Q: And do you have any understanding of why your solicitors attributed these facts to you, do you know why they said?

A: No Ma’am, I don’t, I can’t, I don’t know Ma’am to be honest.”

[400] The letter sent to Professor Brohi on 15 January 2024, by Devonshires Solicitors states as follows, “It is now the combined evidence of Soldiers C and E that Bradley was lying on his back with a weapon by his side seeking to pick it up and fire at the soldiers. It appeared that he was also trying to sit up whilst searching for the weapon. They both believe Mr Bradley was attempting to get in position to fire upon them. Soldier E took the safety off his rifle and was about to fire when Soldier C fired an automatic burst of 3 shots at Mr Bradley. We believe that these final 3 shots are those that fatally wounded Mr Bradley.”

[401] The letter goes on to say, “These statements were prepared at the time of the incident (referring to the statements made by A, C and E in 1986) and have now been expanded upon. Soldier E does not include the sighting of Mr Bradley attempting to pick up the weapon and move into a sitting position, however this is now his evidence.”

[402] I have already concluded in an earlier part of this document that legal professional privilege has been waived on behalf of both Soldier C and E and that I intend to give the appropriate weight to these matters in dealing with the issues raised in this communication to Professor Brohi by Devonshires Solicitors.

[403] I am satisfied that the assertions made on behalf of Soldier E were made in an attempt to support and justify the actions of Soldier C in firing the final three shots which resulted in the death of Francis Bradley. Soldier E in his statement in 1986 and his statement in 2024 did not at any time refer to these matters.

[404] Soldier A, in his statement made in 2024 indicated that he had a limited memory of the events around the shooting of Francis Bradley due to the passage of time. He did not recall the briefing they received before being deployed. He recalls that the tasking would have come from TCG. He recalls that they were acting in support of SMU surveillance subunit who were looking for a pile of weapons in the general area of Toomebridge. They were not given a specific location. They were crashed out which meant the situation was urgent. He stated that their job was to arrest anyone that they saw with weapons. He was the patrol commander and when

deployed they were dressed in camouflaged clothing. He had a rifle with the night sight fitted. They had to be able to deal with any situation which may arise. This included entering a building or setting up a vehicle check point (VCP) or hard stop, and in so doing seek to detain the "armed terrorist."

[405] He recalls meeting up with Soldiers D and E who were from the surveillance subunit. He recalls walking along the track that runs behind the garage. He saw a parked car at the back of the garage and two soldiers a male and a female from the surveillance subunit. These were Soldiers O and P.

[406] He confirms that they went along the hedge line at the back of the farmhouse and there was a gap in the hedge where he was. They had been at that location for a few minutes when he saw car lights. He had good visibility. The area was reasonably lit by a light from the garage and from the farmhouse and the moon was up. He was watching this scene through his night sight, "The night sight works well when there is ambient light, but without the actual point of light in focus."

[407] He stated that shortly after the car arrived, he saw the head of the young man appear around the corner of the gable end of the outbuilding that lay between his position and the farmhouse on his right-hand side of the gap. This man was looking around the far end facing him. He appeared to be looking to see if anyone was watching him and his behaviour was suspicious. He then moved back behind the gable end and out of sight. He then reappeared and walked across the gap towards the wood pile. At this point an older man appeared at the gable end on the corner where the young man had been. The older man was smoking a cigarette. There was something unusual about the younger man's hands. He now believes that the glare from the hands was due to the marigold gloves he was wearing. The younger man walked back to the older man. Soldier A believes they spoke, and the younger man then went back to the wood pile. He then bent down, disappearing behind it.

[408] He recalls that the young man then stood up. He saw that he was holding a weapon in one hand. He does not recall which hand it was in. He could see it against his silhouette as he started walking back towards the other man. His task was to arrest the gunman. He was on one knee with his weapon to his shoulder and looking through the night sight. He states he had good visibility. He shouted out, "Halt" and before he could say anything else the man turned around, moving the weapon into two hands, ready to fire, "he posed an immediate threat to my life and that of my fellow soldiers." Soldier A then fired one round at him and his recollection is that he fell down. He recalls Soldier C also fired at the same time but does not recall if it was one shot or more.

[409] Immediately after he fired, he saw the other man who had been smoking the cigarette run off to the right. At this point he shouted, "runner, right." He then ran to his right in an effort to detain this man. At some point when he was running, he said over the radio that this man was not armed. He was unable to get through the hedge and returned to the gap where Soldier C was still in position. He got over the

fence into the field and Soldier C followed behind him with another soldier. He then ran towards the gable end of the outbuilding and was concentrating on finding where the man had gone. He kept his vision firmly on the gap in case any new threat presented itself. He continued to run forward through the gap and stopped there. He did not see Francis Bradley.

[410] After the initial shots he does not recall seeing or hearing any gunfire. He can only recall hearing the first shots after this length of time. After the incident had ended, he saw Francis Bradley's body lying on his back.

[411] During the incident, he made a contact report and a radio report confirming that the incident had finished, shots had been fired, a gunman hit and none of the patrol had been injured. By the time HMSU arrived the soldiers would have left. He does not recall any conversations with any soldiers at the location of the shooting incident or after. He recalls that he went to a police station and made a statement. He does not recall the detail of this process or who the officers were that he met. He recalls an army lawyer was present. He stated that the police officer wrote out his statement. The police officer used his own words and not his in places.

[412] In his statement made on 19 February 1986, Soldier A stated as follows, "at the left hand corner of the gap he bent down out of my view behind wood and rubbish. Seconds later he stood up and I saw that he was carrying a rifle in one hand, I'm not sure which. This person took a couple of strides towards the gap and I challenged him by shouting 'Halt'. Before I could say anymore the gunman turned sharply as if to confront me and I saw the rifle was now in both hands, traversing in an aggressive manner, in our direction. I believed that he intended to open fire on me and my colleagues and I fired one aimed shot. Almost instantaneously I heard a burst of shots fired from my right and I saw the gunman fall."

[413] Soldier A was asked about the challenge that he gave. It was suggested to him that he hadn't complied with the Yellow Card guidelines by simply giving the one word, "Halt".

"A: Well, as far as my feelings were at the time Bradley had started or had moved the weapon into both hands on the shouting of 'Halt'."

Q: Yes.

A: I thought my life was in danger and the lives of people also on the ground, that is when I opened fire ... I believe that Bradley pulled the weapon up into two hands therefore putting my life in danger, that is why I fired the shot."

[414] Soldier A agreed that Bradley went down after he fired his shot and that he was no longer a threat to him.

[415] Upon questioning by the NOK, Soldier A confirmed that the soldier's position gave them good cover from someone appearing in the gap. He also confirmed that he was in a good position to fire at Mr Bradley. He dealt with the deceased's movements before he shouted "Halt" and confirmed that he would assume that Francis Bradley was unaware of the presence of the soldiers.

"Q: He has a gun in one hand, so the gun is not in the aim position?

A: Correct."

[416] Soldier A accepted that, at that time, Bradley posed no immediate threat. He also accepted that Bradley was walking away from the soldiers and would have been unaware of their presence behind the hedge.

[417] The NOK questioned Soldier A about the challenge made to Bradley. Soldier A confirmed he was familiar with the Yellow Card. He contended that he hadn't time to say any more than "halt" before he perceived his life to be in danger.

"Q: ... And I am going to suggest to you that you haven't complied with the guidelines by simply giving the one word 'Halt'?

A: Well, as far as my feelings were at the time Bradley had started or had moved the weapon into both hands on the shouting of 'Halt'.

Q: Yes.

A: I thought my life was in danger and the lives of people also on the ground, that is when I opened fire."

[418] The following was put to him by the NOK:

"Q: Can I suggest to you that there was nothing in terms of timing that would have prevented you from complying with the Yellow Card and shouting, 'army, stop, or I fire'?

A: No.

Q: Well, are you saying you didn't have enough time to do that?

A: No, I didn't."

[419] The decision to open fire was taken before the gun was aimed in a firing position and before Bradley had fully turned to face the soldiers. Soldier A stated,

"... the reason that the shot was fired is because he transferred the weapon to two hands, therefore I was in a threat."

He developed this further:

"A: When I shouted 'halt' the weapon went from one hand to the second hand, he started to turn and that's when I fired.

Q: ... so he wasn't even pointing the weapon at you at that stage?

A: No.

Q: He had started to turn, is that right?

A: Yes, as far as I can remember, yes."

[420] He specifically rejected the language used in his 1986 statement which recorded that Bradley had been "traversing in an aggressive manner in our direction".

"Q: ... Are you suggesting that he was moving towards you?

A: ... It was written by the policeman and his terminology was different to mine, even though I signed the statement after."

[421] I will deal with this matter at a later stage but suffice to say that I am not satisfied in relation to his account in this respect.

[422] He did however maintain that Francis Bradley was upright when he shot him.

"Q: ... do you remember was he bent over?

...

A: No, he was standing up.

Q: Is it your evidence that he was upright?

A: Yes.

Q: Are you sure about that?

A: Yes.”

[423] The ballistics evidence and the pathology evidence established that Soldier A fired the shot which struck Francis Bradley and shattered his pelvis. Soldier A also accepts that upon shouting “halt” he fired one aimed shot. This was a direct shot which hit the upper thigh and passed upwards through the body shattering the pelvis. The NOK submit that Soldier A fired one of the first shots which hit Mr Bradley. I am satisfied on the balance of probabilities that this was the first shot fired and as a result of this shot Francis Bradley fell to the ground. I am also satisfied that the deceased was not upright when he sustained this wound and in all probability was bent over with his trunk parallel to the ground and the firer behind him and obliquely to his right as suggested by Dr Carson. Soldier A accepts that at the time he fired, the deceased was not pointing the rifle at the soldiers. The reason why he fired was because the deceased had moved the rifle from one hand into both hands and Soldier A perceived an immediate threat to himself and the soldiers on the ground. This manoeuvre occurred as he shouted the word “halt”.

[424] In both his statement in 1986, his statement in 2024 and in his oral evidence before the inquest, Soldier A maintained that he observed the deceased transferring the rifle into both hands and believed he intended to open fire. The expert evidence does not support this account he gave about the stance of the deceased and his positioning when he fired his shot at Bradley. Soldier A believed that his firing of the shot was as the result of an imminent threat to himself, and his colleagues posed by the actions of Francis Bradley at this stage.

[425] Soldier A perceived immediate violence either to himself or his colleagues at the moment when Francis Bradley transferred the rifle from one hand to both hands. He was unable to give the full warning in accordance with paragraph 3 of the Yellow Card because of this.

[426] Soldier C provided a witness statement in 2024. He indicated that he was part of the standby team of the reactive subunit SMU. His role was to deploy when tasked by the TCG. He does not have any recollection of the briefing prior to the ground deployment that evening. The standby team was crashed out. He recalls meeting Soldiers D and E from the surveillance subunit. He recalls taking up position in the hedgerow about 40 metres from the farmhouse outbuildings. They were told that there were gunmen operating in the area. He believed that weapons

or a weapon were in a hide and were likely to be collected by an ASU gunman who was about to use them in an operation.

[427] The soldiers deployed behind the hedge line at the back of the farmhouse. He was using the night sight attached to his weapon to observe the area. He recalls that there was reasonable visibility while using the night sight. He stated that night sights work best when there is some ambient light. He does not recall how long they waited before the car arrived. He did not see the car but heard the engine. He does not recall the exact movements of the men. There was an older man and a younger man. He recalled the younger man moved through the gap in the outbuildings to the left of the gap. He ducked out of sight behind the dark area. When the man stood up, he saw that he had a rifle under his control. He did not recall the exact position of the young man, or which hand was gripping which part of the weapon. Soldier A was to his left and was the Patrol Commander. He challenged the man by shouting "Halt". Soldier C concentrated on the man with the gun. Immediately, as Soldier A shouted "Halt" the man swung around to face their position, "he pointed his weapon in our direction. I believed he was about to fire his weapon in our direction. I believed he was about to fire his weapon at us." At this point Soldier C then exercised his privilege against self-incrimination and did not provide any further account of his actions that night or afterwards.

[428] Soldier C also refused to adopt his deposition which was identical to his witness statement. I do intend to have regard to the contents of his witness statement and I am satisfied, having heard the evidence of DI Nicholl, that the witness statement after-caution, dated 19 February 1986 and marked 'Signed Soldier C' amounting to 4 pages, was the statement made by Soldier C in 1986.

[429] Soldier C, in his 1986 statement, confirmed that having met up with Soldiers D and E they made their way to the rear of the farmhouse and took up position behind a sparse hedge some 40 metres from the nearest outbuilding. It was a cold, clear night with some cloud. He saw headlights reflected of a building as a car drove into the driveway of the farmhouse. He was using his night sights when he saw a man appear in the farmyard at the right-hand corner of the gap in the outbuildings from his position. Another man appeared in the farmyard and took up a position in the middle of the gap. This person seemed to be checking and having a good look around. He then went back to the second person and seemed to have a short conversation. The person who walked into the gap and carried out the check was fairly thin. He was wearing a bomber type jacket and darkish trousers. The second man looked broad shouldered and was wearing a normal jacket. He was slouched and breathing deeply because he could see his breath in the cold air. After a short discussion, the person in the bomber jacket walked through the gap in the outbuildings to just behind the left-hand building where he bent down. He stood up and began walking back towards the gap, but after a couple of paces he saw that he was carrying a rifle.

[430] He then stated, "I heard Soldier A shout 'Halt'. The gunman turned in our direction and as he did so, I could see the rifle pointing at us. I took his actions to be that he intended to open fire on our patrol so I opened fire." He stated that at roughly the same time he was aware of a shot being fired from his left. During this burst of gunfire, the gunman went to ground. He remained static and immediately after the shooting he saw the second person turn and run. Soldiers A and D took off right whilst B and D went in pursuit of the runner. He realised that there was further movement from the gunman as if he was attempting to get up and engage them. Soldier C fired a further burst of shots but states he doesn't think he hit him because he ducked down out of sight. At the same time, a man came out of the back door of the house and Soldier C shouted at him to, "stand still, security forces," but he ran off to the east. Soldier C states that could see he was unarmed so he did not shoot at him but warned his colleagues.

[431] He then shouted that he (Soldier C) was going forward and as he did, he was joined by Soldiers A and E. He skirmished forward through the field, and midway between his original location and the location of the gunman, he fired a further burst. He detected movements in the shadows. Soldier C states that it was impossible to use his night sight because of his actions. He instinctively fired and did so fearing for his safety and because he was in completely open ground. He darted to his right at speed and momentarily took his eyes off the location. He now realised that the gunman was a bigger threat and that possibly he had advanced too far forward. As he turned to relocate the gunman, he was aware of a stream of light from a torch attached to a rifle sweeping the area. "Instantaneously, I again located the gunman and realised he was moving into a position to engage me. I just opened fire instinctively and ran through the gap into the farmyard where I took cover by the farm buildings." He is aware that he fired in total 20 rounds.

[432] The ballistics and pathology evidence conclusively establishes that Soldier C fired the three shots which killed Francis Bradley. These were the final shots fired by Soldier C in the field. In summary, it is the case that Soldier C fired in total 20 shots at Francis Bradley. There were four separate bursts of gunfire, including the shot fired by Soldier A. Soldier C fired 13 shots from his location at the hedgerow. He fired further shots from a location in the middle of the field and then fired a further five shots from a location adjacent to the outbuildings and gap between the outbuildings. The evidence of Mr Mastaglio established that at least three were fired in automatic mode. These shots resulted in the three wounds to the umbilicus, which killed Francis Bradley.

[433] Soldier C's deployment of lethal force stands in contrast with that of the soldiers who were deployed alongside him. Soldier A fired a single shot, whilst Soldiers B, D and E did not fire any rounds. Mr Bradley sustained eight wounds in total. The evidence establishes that the wound to the pelvis was caused by Soldier A and the remaining wounds as a result of the gunshots fired by Soldier C. The NOK submit that Soldier C did not have an honest belief that his life, or the lives of the other soldiers were in danger when he fired and that the number of shots fired by

Soldier C was excessive and not reasonable in the circumstances which he believed existed at the time.

[434] The deposition of Soldier C is not signed by him albeit it was presented to the original inquest as his evidence. It is a duplication of his after-caution statement and I accordingly attach the appropriate weight to it. He has refused to adopt the contents of his 1986 statement but, as previously indicated, I am relying on the contents of same in determining his actions on that evening. Without reliance upon this statement and by invoking his privilege against self-incrimination, on one view I have received no explanation as to why Soldier C fired these shots, and no other soldier gives any account which Soldier C can seek to rely on.

[435] At no stage during the inquest did Soldier C's legal representatives challenge the evidence from DI Nicholl, that the account given in the 1986 was that of Soldier C and was a voluntary statement made with the benefit of legal advice. Furthermore, in the two letters written from Devonshires Solicitors to Professor Brohi, in January and February 2024, I have already determined that legal professional privilege has been waived and I am entitled to take into account, in assessing Soldier C's actions, the contents of the instructions contained therein.

[436] The NOK rely on the inconsistency between Soldier C and Soldier A in respect of the positioning and actions of Francis Bradley immediately before the first shot was fired. Soldier A, in his oral testimony, indicated that Bradley had started to turn but that he wasn't pointing the weapon at that stage. Soldier C states in his 1986 statement, "the gunman turned in our direction and as he did so I could see the rifle pointing at us. I took his actions to be that he intended to open fire on our patrol ...".

[437] The account given by Soldier C at this point remains untested as he decided to avail of his right not to incriminate himself. There is an undermining of this account by Soldier A in his oral evidence before me.

[438] The expert evidence is consistent that the deceased could not have been upright when he sustained the wound which shattered the pelvis. Soldier C's account suggests that Bradley was upright when this shot was fired.

[439] The NOK submit that all of the soldiers have lied regarding the weather conditions that evening in order to lend support to the accounts given by Soldiers A and C seeking to justify their recourse to lethal force, not only in their 1986 statements but also their 2024 statements.

[440] The second round of shots fired by Soldier C were also fired from his location behind the hedgerow. Soldiers A and E had moved to the right in an effort to cut off the second person. Soldiers A and E were unable to get through the hedge and returned to Soldier C's location at the gap. As they did so, Soldier C fired a further round of shots as he had observed movement from the gunman as if he was attempting to get up and engage the soldiers.

[441] The second round of shooting took place after the first shots fired by Soldiers A and C, by which stage Francis Bradley had sustained the serious wound shattering his pelvis. Both Soldier A and Soldier C confirmed that following this first phase of shooting, Bradley went to ground. Professor Brohi also confirmed that the shot to the pelvis would have caused Francis Bradley to fall.

[442] Soldier C did not think he hit Bradley at this stage because he ducked down out of sight. The NOK submit that the second round of shots fired from the hedgerow were fired in circumstances where Soldier C did not hold an honest belief that his life or the lives of his colleagues were in danger at this time.

[443] The NOK also submit that Soldier C was in breach of the Yellow Card at this point on the basis that Soldier C in his statement did not in fact suggest that Bradley was firing or about to fire a weapon. It is accepted that the Yellow Card is not determinative as to whether Soldier C had an honest belief that his life was in danger but that non-compliance with the Yellow Card is a matter which can be considered in evaluating this issue.

[444] It is also correct to state that none of the soldiers', other than Soldier C, claim to have seen Bradley do anything, following the first round of shots to suggest that he posed any threat to them at this stage. Soldier A stated that after the gunman fell, he no longer considered him a threat to either himself or to pose a military risk. Soldier C stated that he, "realised that there was further movement from the gunman as if he was attempting to get up and engage us," and fired a further burst of shots.

[445] Following the second round of shots, Soldier C then moved across the gap in the hedgerow and into the field. Soldier C states that he "... detected movement in the shadows, I instinctively fired. I did so fearing for my safety and being in completely open ground."

[446] The NOK submit that "movement in the shadows" cannot form the basis of Soldier C having an honest belief that his life was in danger at this point, or that this belief could be described as being reasonably held. It falls far short of justifying a burst of gunfire at Mr Bradley.

[447] The NOK further submit that firing instinctively does not provide sufficient reason or justification for firing when there was no suggestion that Francis Bradley was firing or about to fire a weapon. Simply to fire because he detected movement in the shadows was contrary to the provisions of the Yellow Card.

[448] In respect of the third burst of shots fired by Soldier C, Soldier E confirmed that despite turning his torch on to illuminate the area that Soldier C was shooting at, he never saw Francis Bradley doing anything that suggested that he was a threat to the safety of the soldiers at this point.

“Q: ... when you were moving alongside him you couldn’t see what he was shooting at or why he was shooting, could you?

A: No.”

[449] The fourth burst of fire from Soldier C resulted in the wounds to Francis Bradley which proved fatal. When he sustained these shots, Francis Bradley was lying supine on the ground. Soldier C in his 1986 statement said as follows:

“... as I turned to relocate him I was aware of a stream of light torch ‘attached to rifle’, sweeping the area. Instantaneously I again located the gunman and realised that he was moving into a position to engage me. I just opened fire instinctively and ran through the gap into the farmyard where I took cover by the farm buildings.”

[450] The NOK submit that Soldier C did not have an honest belief that his life, or the lives of the other soldiers were in danger, such as to deploy lethal force which was reasonable in the circumstances. They further submit that the expert evidence discloses that these shots were fired on automatic and represented a breach of the Yellow Card.

[451] In the letter from Devonshires Solicitors to Professor Brohi, dated 15 January 2024 it is stated as follows:

“It is now the combined evidence of Soldiers C and E that Bradley was lying on his back with a weapon by his side seeking to pick it up and fire at the soldiers. It appeared that he was also trying to sit up whilst searching for the weapon. They both believed that Mr Bradley was attempting to get in position to fire upon them.”

[452] As previously outlined above I have determined that legal privilege has been waived in respect of these issues and accordingly I attach the appropriate weight to these assertions in determining the belief of Soldier C at this highly relevant time.

[453] The NOK submit that the assertion made in the written statement of Soldier C that Bradley was moving into a position to engage him does not demonstrate an honest belief that his life was in danger. The statement makes no reference to Mr Bradley holding a weapon or to his position on the ground.

[454] By his failure to answer questions in relation to his actions during the inquest and his reliance on the right not to incriminate himself this account is untested. The NOK also submit that as Soldier C fired a burst of shots in automatic mode this was

also in breach of the Yellow Card and not consistent with “fire no more rounds than are necessary.”

[455] The ultimate submission from the NOK is that on the available evidence to the court, Soldier C did not hold an honest belief that he needed to fire these shots to defend either himself or his colleagues from unlawful violence.

[456] The ballistics evidence and the pathology evidence establishes that the three shots fired by Soldier C to the umbilicus region of Francis Bradley caused his rapid death. I am satisfied that at the time when these shots were fired that Francis Bradley was lying supine on the ground. I am satisfied that Soldier A fired the shot which effectively shattered the pelvis of the deceased. I am satisfied that almost simultaneously Soldier C fired a number of shots from behind the hedge and through the gap in the hedgerow. I am satisfied that Francis Bradley was not standing upright when these initial shots were fired and, following the shot to the pelvis area, fell to the ground.

[457] I am satisfied that at the time of the first shot being fired Francis Bradley was not pointing his rifle in the direction of the soldiers. I am satisfied that he did transfer the rifle from one hand to both hands before he was shot. I am satisfied that Soldier C did see Bradley standing up and that he had a rifle under his control at this point.

[458] Soldier C in his 2024 statement and in his statement in 1986 made the case that Francis Bradley turned and pointed the rifle at the soldiers. Soldier C held the belief that Bradley was intent in firing at the patrol. In his 1986 statement he confirmed that he saw the deceased carrying a rifle as he walked towards the gap. Soldier C believed that his life and the life of his colleagues were put in imminent danger by Bradley’s actions at this point in time.

[459] Soldiers A and D took off to the right in pursuit of the runner. Soldier C observed further movement from the gunman as if he was attempting to get up and engage the soldiers. Soldier C held the belief that Francis Bradley was about to engage them and accordingly discharged further shots. Soldier C concluded at this time that the second man was unarmed and did not fire any shots at him.

[460] Soldier C decided to take it upon himself to engage Bradley and moved into the field. He asserts that he had little regard for his own safety and was potentially exposing himself to the increased risk of encountering an armed terrorist. He detected movements in the shadows and at that stage was unable to use his night sight on the rifle to better observe the person in the shadows. Soldier C believed at this point that Bradley posed an immediate threat to him. Soldier C believed that he had advanced too far and was exposing himself to increased danger of Bradley firing at him.

[461] Having become aware of the light from a torch which was sweeping the area, Soldier C observed the gunman moving into a position to engage him. He then opened fire instinctively. He does not expand upon this description in his 1986 statement. In the letter to Professor Brohi in 2024, this account is expanded upon. The combined evidence of Soldiers C and E is that, at this point, Francis Bradley was lying on his back with the weapon by his side, attempting to sit up whilst searching for the weapon. Both Soldier C and E believed that Bradley was attempting to get in position to fire at them.

[462] Soldier C believed that he was in imminent danger and a life-threatening situation at this particular time and accordingly fired further shots.

[463] The guidance as given by the Yellow Card is not determinative as to whether Soldier C and Soldier A had a honest belief that his life was in imminent danger or those of his colleagues, but it is a matter which I am entitled to have regard to in evaluating that issue. Similarly, I am able to have regard to the degree of force deployed at the various stages of the encounter by the soldiers with Francis Bradley and the discharging of the shots either as single shots or in the case of Soldier C, separate bursts of fire.

Police investigation and missing evidence

Police investigation

[464] DI Nicholl gave evidence before the inquest. He was referred to his evidence from the original inquest in 1987. He confirmed that he had no intelligence about the incident before it happened. He was notified of the incident at 10.30pm on 18 February 1986. He confirmed that upon his arrival at the scene, DMSU were present, but no soldiers were there. He confirmed that Bernard McLarnon was arrested and taken to Gough Barracks because of the suspicion that he was the other man in the yard. He confirmed that there was no forensic evidence from Mr McLarnon or his car. He said there was no forensic evidence from Mr Bradley's car. He said the scenes of crime officers arrived at the scene and he pointed out to the photographer the holes in the wall. He agreed it was up to him to ensure that the place was searched. He said that a team of police looked around the area and that anything of relevance was photographed.

[465] In relation to the interviews of the soldiers, he stated that DCI William McBurney was asking the questions and was writing down the answers in statement form. He agreed that he and DCI McBurney were investigating this together. He agreed that he witnessed the soldiers' statements. He said he may well have asked questions himself but that any replies that he got were written down by DCI McBurney. He said that he didn't take any notes at all. He said that in total he interviewed eight soldiers. He was asked about the two rifles found beside and near the body. He said that the FNC rifle was a new weapon in the area and had been used in one previous incident, namely an attack on Castledawson Police Station,

when 57 rounds were fired. He said that the Armalite rifle which was found near the body had been used on 24 previous occasions. These attacks were either on the army, the UDR or police. The weapon had been used in four murders and 20 attempted murders and it was known that the Armalite belonged to the Provisional IRA. He was asked if he was aware of a complaint made at Castledawson Police Station by the deceased. He said that he was not involved in the complaint, but he did know that it had been made and investigated. He said that he understood that numerous complaints had been made but that he did not see this particular complaint. He was asked whether or not he was aware of complaints made by the deceased in relation to threats on his life by the security forces. He stated that he understood that the complaint related to police officers who had arrested the deceased that morning (with reference to his arrest in relation to the shooting up of Castledawson Police Station). He also confirmed that roadblocks had been set up prior to his arrival at the scene at 60 Hillhead Road manned by police and soldiers.

[466] DI Nicholl then read out his statement made in 2024. He liaised with his superior officer DCI McBurney when a serious incident occurred. He does not have any recollection now of meeting or knowing the deceased or his name prior to attending the scene of his death. He never saw the complaint by or on behalf of the deceased, dated 24 October 1985. He has a memory of DCI McBurney being at the scene at some stage when he was there. He was not aware of any military or police activity in the area that evening as it was out of bounds prior to 18 February 1986. He has a recollection of arriving at the scene and being greeted by an officer from DMSU. He tried to get as much information as possible to commence an investigation. He was informed that the soldiers had gone back to Londonderry. He does not recall speaking to members of the military at the scene. He has a recollection of people being arrested at the scene. He recalls being with a member of SOCO and seeing the deceased. He remembers that the deceased was wearing gloves and that there was a rifle nearby. He does not recall a second rifle being as obvious as the first. He does not recall issuing directions about the scene preservation, but this would have been standard. He also has a memory of DS Jackson attending the scene. He briefed DS Jackson with what information he had and that they needed to speak with the soldiers as soon as possible.

[467] He confirmed that DCI McBurney was in overall charge of the investigation. Both of them discussed what steps were required for the investigation. Mr Nicholl wished to interview the soldiers involved on the night of the incident and as soon as possible. His understanding was that DCI McBurney would have to liaise with Special Branch and military to arrange interviews, but he was not involved in this process. The arrangements were made to see the soldiers the day after the incident at Gough Barracks.

[468] He does not have memories of the interviews. He was the lead in the investigation. In interviewing the soldiers, the police attitude was that they were required to gather and assess the facts. This included obtaining information from the soldiers for police to consider whether they had acted lawfully or not. The police

were aware that the soldiers had been involved in an incident in which the deceased had been killed by the use of lethal force, meaning that the soldiers were cautioned at the commencement of their interviews and police had an open mind in the interviews. DCI McBurney led these interviews. DI Nicholl led later interviews. The process was to discuss the incident with the soldiers, write down their account and then ask the soldier to consider what was written. The signed statement would then have been left in for typing.

[469] His understanding from the statements is that each soldier was attended by a lawyer. He does not have a recollection of specific interviews. He understands that some of the interviews took several hours, and he believes that they reflect a process of comments having been made by soldiers, which were responded to with follow up questions from the interviewers in order to explore and clarify what was being told to them.

[470] He confirmed that he was not briefed with any intelligence from police or military for the purpose of interviewing soldiers, which may have gone to more senior officers. He did not ask any soldier about intelligence matters. He was briefed by DCI McBurney or DS Jackson in respect of the interview strategy. At the time of these interviews, police did not have a full understanding of pathology or ballistics evidence.

[471] He submitted a report to DPP following the investigation. This involved the gathering of statements and evidence before making recommendations. He also liaised with DCI McBurney. On occasions, the DPP would raise queries about a report. DI Nicholl could not recall that this occurred in this instance. He did not have to revisit his recommendation to the DPP. He has no recollection of writing his statements in 1986.

[472] In his statement of 1 March 1986, DI Nicholl confirmed that he was responsible for releasing Terence McVey from police custody when he had been detained at the scene. He confirmed he spoke to Mrs Walls at the scene and her son Kevin. He instructed various agencies upon their arrival at the scene. He returned to 60 Hillhead Road at 9.00am on 19 February 1986 to continue enquiries.

[473] He provided a further statement on 3 March 1986 confirming that he took part in the interview of Bernard McLarnon at Gough Barracks.

[474] In a statement dated 1 June 1986, he confirmed on 19 February 1986 he interviewed Soldier A. DCI McBurney informed him that police were investigating the shooting at Hillhead Road and cautioned him. The interview commenced at 4.00pm and the statement ended at 7.00pm. The statement was signed by Soldier A. On 20 February 1986 he saw Soldier B. This statement was taken down by DCI McBurney. The interview commenced at 5.35pm and terminated at 7.15pm.

[475] At 2.45pm on 20 February 1986, he and DCI McBurney interviewed Soldier C. The statement was taken down in writing by the DCI, having elected to make a written statement. The statement ended at 5.35pm.

[476] On 20 February 1986, he saw Soldier D. Soldier D elected to make a written statement after caution. On the same date he saw Soldier E. Soldier E elected to make a written statement after caution.

[477] On 24 February 1986 he took statements after caution from Soldiers I, Soldier J and Soldier K.

[478] He confirmed that it was arranged that the soldiers be produced at Gough Barracks, either by DCI McBurney but more probably DS Jackson. The order of their arrival for interview would have been down to them and not him. The first couple of soldiers were the most important ones and that is why Mr McBurney conducted the interview with Nicholl, "the fact is when they came in there was an army lawyer there ... they wanted to make a statement. Now, they were cautioned, and in that caution - they don't have to say anything. They chose to tell the story."

[479] He was asked why Soldier C was not spoken to sooner given his role: "I can't answer that at all. I'm sorry."

[480] He confirmed to NOK that upon his arrival at the scene the military had already left. He was unable to explain why the weapons of the soldiers who had fired shots had not been seized. He said that he would have wanted the soldiers to have been there to have received a first account from them as to what had happened. He indicated that there was no forensic evidence linking the deceased's car to the guns. He was not told that earlier that night a gun had been removed from Bradley's car. He was never directed to Blackpark Road about a suspicious car at that locality.

[481] In relation to the interviews of the soldiers he confirmed that he didn't take notes. The statement was taken in writing by DCI McBurney, and he didn't recall any notes being taken. It was suggested to him that as part of the investigative process records of the questions and answers given should have been recorded. He agreed with this proposition. He was taken to his report on the incident, he stated, "... I don't think anyone will wait for a shot to be fired at them before returning, it would be too late." He was asked about the threat posed by Francis Bradley; "Anyone carrying a rifle, no matter if it was soldiers or not is a threat." He clearly took the view that Soldier C fired the shots to eliminate the threat presented by Francis Bradley whilst fearing for his own safety.

[482] He confirmed, "we can only put down in writing in the statement what we're told." He confirmed that he had read the pathologist's report. He confirmed that the DPP had read his report and agreed with its recommendation:

“... what I did was put the facts together as - as I knew them, on paper, and made a recommendation, submitted it to the DPP and the DPP agreed with the recommendation ... what the soldiers said is in the statements.”

[483] He was asked by the NOK if at any stage he explored with the soldiers if the accounts they were giving were consistent with the scientific evidence that was available. He indicated that he did not do so, “... I was putting the file together, I would have consulted, probably with DCI McBurney to get his views on it, and - any consultations with the army or whatever would have been done by him or DS Jackson.” He confirmed that the DPP never came back to him suggesting that further investigations should be carried out.

[484] DI Nicholl was recalled to give evidence in the inquest, in order to deal with the issue raised by Soldier A in his evidence about the statement which indicated that Bradley had been “traversing in an aggressive manner”. He was referred to the fact that DCI McBurney attributed that phraseology to the soldier. He stated, “Well, I’ve no recollection of that happening, but Soldier A was certainly present. His legal representative was present. That was written down and at the end of the statement, the statement would have been read over to him in the presence of his legal representative, and it was agreed that it was an accurate description of what happened.” He finally stated, “what was written down was what Soldier A had said.”

Missing evidence

[485] Soldier U gave evidence before the inquest. He indicated that there was a Puma helicopter in the air which had a P3 image intensifier fitted. This device picked up heat source on the ground. The P3 had a video recording facility. He recalls watching the video and seeing, in particular, two short clips which were clear. The first clip was of two or three soldiers running forward from the disused railway line towards the farmhouse. This may have been the engagement in which Francis Bradley died. The second clip was of Soldier B moving down the track, swinging a weapon, shouting, “where is he?”. He remembers that he took the video back to the surveillance subunit. He does not know what happened to the video thereafter.

[486] He stated that Detective Chief Superintendent Frank Murray was aware of the image intensifier. Detective Chief Superintendent Murray and other members of TCG were aware of this and knew it had a video. He does not recall if Detective Chief Superintendent Murray or anyone from TCG saw the video. He also accepted when questioned about this that he had no direct knowledge that Detective Chief Superintendent Murray would have known about this footage, and it was all an assumption on his part.

[487] DI Nicholl stated in his oral evidence that he had not received this video footage. There has been no evidence presented to the inquest that CID ever received this footage.

[488] Soldier V in his statement of 2024 stated as follows:

“... the police would be aware if there was a P3 in the sky and that it had the facility to record events. P3 was normally deployed to the scene from a stand-off position and called in when required to assist surveillance and situational awareness in rural environments. As we were acting in support of the police, and I am told Frank Murray was present in at least one of the operation rooms, it may be that police recovered or viewed the video. I do not know. The police would have been aware of the existence of any video as all assets were deployed under police tasking.”

[489] He confirmed in questioning that he has no knowledge if Detective Chief Superintendent Murray saw the video or was given it, or indeed if any other police were provided with a copy of the video.

“Q: ... it’s an assumption that you’re making and you’ve no evidence whatsoever that it was provided to the police?”

A: I have no factual evidence.”

[490] The inquest has also been deprived of another important source of evidence, namely the radio logs which would have been produced as the operation was unfolding. Soldier U in his oral evidence confirmed that such a log would have been kept. The radio log provides a contemporaneous note of the unfolding operation and would have recorded all communications in and out of the operations room. Soldier U was unable to explain what had happened to the logs.

[491] Soldier FBM09 gave evidence before the inquest in relation to the police investigation. He was described as the “flying Lawyer”. At the time of the incident, he was a member of Army Legal Corp. He had no recollection of the events due to the passage of time. He would have fulfilled the role of a duty solicitor. He attended the RUC Station at Gough Barracks. He has no recollection of actually being there or the interviews taking place. He cannot remember either DCI McBurney or DI Nicholl. He does not remember the officers or the soldiers or who was present. As recorded in his report, he would have been present when the soldiers involved were interviewed. He cannot recall the interviews. He cannot recall how the interviews were actually conducted.

[492] An issue arose from his report which suggested that an officer from the soldiers' unit was also present throughout the interviews. The statements only recorded the police officers and himself being present during the interviews. He was referred to the fact that he had not referred to the officer by name in his report to his superiors, "I am astonished when I read this to say that an officer was present throughout the interviews, that surprises me to be fair because I assume, thinking back all these years, it was me and the soldier concerned and the two policemen." He however agreed with the NOK that the document seemed to be saying that an officer from the soldiers' unit was present during the interviews.

[493] Having considered the evidence of former DI Nicholl, the statements of the individual soldiers and the account of Soldier FBM09 I am not satisfied that there was such a person present in the interviews carried out in Gough Barracks.

[494] I am satisfied that the RUC investigation into the shooting began with all due expedition on the evening of 18 February 1986. The scene was immediately preserved pending the arrival of specialist agencies. The CID were on the scene within a very short time after the incident ended and began their investigations with senior officers attending. Examination of the scene by specialised forensic personnel, including Mr Brian Thompson, Senior principal Scientific Officer at Northern Ireland Forensic Science Laboratory, assisted by RUC photography, Mapping and SOCO personnel took place.

[495] Sergeant McCauley confirmed upon arrival at the scene that he met with a soldier who identified himself as the person in charge of the military deployment and he explained to Sgt McCauley what had happened. He confirms that once the scene was secured, the military left. His function was to preserve the scene until the overarching investigation by CID began. He confirmed that HMSU did not have an investigative function.

[496] Sgt McCauley confirmed to the NOK that the protocol was followed in respect of the seizure of the military weapons which fired the shots, "... very firm arrangements existed whereby military involved in shooting incidents, their details and their weapons would be subsequently produced to police for full investigation and examination." I am satisfied that this protocol was complied with in this instance.

[497] I am satisfied that the interviews were carried out with the soldiers involved in accordance with accepted practice and were conducted expeditiously by two highly experienced RUC Senior Officers. These interviews were conducted at Gough Barracks and each individual soldier had legal representation during the interview. Each soldier provided a signed and voluntary statement following interviews which variously lasted several hours. I am satisfied from the account given to me by DI Nicholl that the wording in those statements came from the individual soldier and I reject any suggestion that either police officer inserted their own words into the statements.

[498] I am satisfied that the RUC officers carried out a full and proper investigation and did not carry out a perfunctory review of the case. I am reassured in this view by the fact that upon submission of the police file to DPP, there does not appear to be any interim directions emanating from the prosecution service. On 29 July 1986, the DPP wrote to RUC stating that it's file should be marked "no prosecution".

[499] DI Nicholl in his report to DPP stated:

"From the evidence of the soldiers there would appear to be no doubt that Bradley knew exactly where the weapons were. Once challenged Bradley brought the weapon into a position where the lives of the soldiers were at risk. He was shot. Soldier A fired one shot and Soldier C fired 20 shots in total at Bradley. Although this on the face of it may seem excessive it was in my opinion fully justified in the circumstances ... There has been speculation and rumour in the area regarding the circumstances of the shooting. The facts as told by the soldiers speak for themselves and can be supported by the report of the Pathologist and NIFSL. Bradley was a suspected terrorist and the guns found had been used previously in incidents in which his involvement was strongly suspected. As the circumstances surrounding the shooting appear to be justified I would recommend no action against any of the soldiers."

[500] Sub Divisional Commander J R Blair appended to the report of DI Nicholl of the 1 July 1986, stating that he would agree with the recommendations of DI Nicholl and recommend that the file is marked no prosecution.

[501] In respect of video footage, I accept that DI Nicholl was never made aware of its existence, and I cannot be satisfied on the evidence from Soldiers U and V that TCG/Special Branch were aware of its existence and accordingly withheld it from CID.

[502] I wish to state that it is entirely unsatisfactory and unacceptable that this video evidence is unavailable to this inquest, and all the more so that the state parties have been unable to provide an explanation as to how this situation has arisen. Had this video been retained and/or located it would clearly have assisted me in conducting my task in this inquest.

[503] In addition to the clothing of the deceased, the weapons as used by the military personnel were not available for examination purposes. This material and items would also have been of significant assistance to the inquest.

Findings of fact

[504] I have considered the various written and oral submissions made by all sides in delivering my findings in this inquest and have carefully reflected upon those submissions from both a legal and factual perspective. I am satisfied that I am able to adequately address the statutory questions that I am required to determine upon and to formulate my views in respect of all matters which require adjudication upon in an open and transparent manner. I have provided in the body of the text my views and conclusions in respect of many issues arising during this inquest. I have attempted to allay rumour and suspicion about the events of 18 February 1986 and have approached this inquest from an entirely neutral standpoint surrounding the tragic events which flowed from the shooting of Francis Bradley.

[505] My primary focus throughout this inquest has been to address two key issues. The use of lethal force and the planning and control of this military operation. When considering the question of whether the use of lethal force by the soldiers was justified the words of Sir Brian Leveson in *E7 v Sir Christopher Holland* [2014] EWHC 452 are of particular significance.

“The use of lethal force by state actors must be subject to the most detailed and rigorous examination. The examination must be prepared to consider every perspective. Those perspectives include a full recognition of the enormous challenges facing the police along with the urgency and almost instantaneous decision making required of highly trained officers involved.”

[506] I have considered the entire sequence of the events at 60 Hillhead Road, and I have referred to the individual firing of shots both by Soldier A and Soldier C at the various instances when the shots were discharged by both of them in reaching my findings. I find individually and collectively that in respect of the sequencing of the firing by both, that they believed there was an imminent threat not only to themselves but to lives of the other members of the patrol as posed by Francis Bradley.

[507] I find that the use of lethal force deployed by Soldier C when he fired the final shots was reasonable and proportionate to the threat which was present at that particular time by the deceased. I also find that the firing of all shots by Soldiers A and C, whether in single mode or automatic mode in the case of Soldier C, was a reasonable and proportionate response to the threat posed by Francis Bradley. I also find that this imminent threat was present on each individual occasion when shots were discharged.

[508] I have reviewed the evidence in relation to the planning of the military/RUC operation that evening in very considerable detail throughout this document. I am satisfied that there was an ongoing operation in place which had been taking place

over a period of time. I am satisfied that the desired intention was to apprehend members of PIRA ASU engaged in ongoing terrorist activity. I am satisfied that the planning clearly made provision for a hard arrest if at all possible.

[509] I am satisfied that Soldiers O and P did observe Francis Bradley earlier on that evening in Blackpark Road. I am also satisfied that he was involved in some form of terrorist activity that particular evening, at the very least, in the removal of weapon from a makeshift hide at the rear of 60 Hillhead Road. I am satisfied that the initial deployment that evening was a surveillance one, and it was only when Bradley was observed at Blackpark Road, that it turned into a reactive role on behalf the military.

[510] I accept that the positioning of the patrol behind the hedgerow was the appropriate location to carry out this surveillance role and then potentially a reactive roll to the circumstances prevailing at the given time. The desired intention at all times was to effect an arrest of an ASU and I am satisfied that the location chosen did not deflect from the chosen aim of effecting an arrest. I accept that the reactive subunit had to crash out because of the urgency of the situation and that in the circumstances did everything possible to ensure their own personal safety but also to arrest the potential terrorists as opposed to engaging in a confrontation involving the use of lethal force.

[511] In reaching my findings that Francis Bradley was engaged in activities on behalf of the IRA the inquest has heard evidence to the effect that his name was entered into the IRA roll of honour which described him as a volunteer, County Derry.

Verdict

[512] The deceased was Francis Bradley.

[513] He was born on 25 March 1965 at Mid Ulster Hospital, Magherafelt.

[514] His father was Edward Bradley, a farmer and his mother was Rosemary Bradley, a housewife.

[515] He died on 18 February 1986 at 60 Hillhead Road, Castledawson, County Londonderry.

[516] He died in or about 10.00pm on the night of 18 February 1986.

[517] He died as a result of gunshot wounds. The cause of death was laceration of the heart, right lung, liver and intestines due to gunshot wounds of the trunk.

[518] The use of lethal force was justified. Soldier C held the honest belief that it necessary in order to prevent the loss of life.

[519] The use of force by the soldiers including the use of lethal force was both reasonable and proportionate.

[520] The operation was planned and controlled in such a way as to minimise to the greatest extent possible the need for recourse to lethal force.

APPENDIX 1

Summary note

Note of the inquest from February 1987 and Mr Liam McNally, retired District Judge.

The Solicitor for the NOK provided a bundle of material to the Coroners Service, and this material formed a folder before the inquest entitled 'Next of Kin Material', Folder 27. This material contained what was described as a note of the inquest from February 1987. A query was raised as to the origin and author of this note. This note was approximately 60 pages long, with some duplicate pages.

Mr Liam McNally, former solicitor, and retired District Judge, represented the Next of Kin at the 1987 inquest, and he gave evidence to this inquest in relation to this document. In his 2024 statement he believed the document may have been prepared by the Ministry of Defence, and he felt that it was a fairly accurate account of what occurred at the inquest. His view changed on the authorship of the note when he gave oral evidence to the inquest, and he said that "On the balance of probabilities...they were made by our office", with reference to his solicitor firm. The basis of the evidence of Soldier B, D, E and DI Nicholl from the 1987 inquest has been obtained from this document which I accept as a broadly accurate description of the events of the original inquest.

APPENDIX 2

Summary Note

Gavin McGill, Consulting Engineer

Gavin Magill, Consulting Engineer, was instructed by the Legacy Inquest Unit on behalf of the Coroner. Whilst Mr Magill was asked to address several questions, his instructions were primarily concerned with addressing the accuracy of the maps generated by the RUC in 1986; recording measurements from the house, outbuildings and field where Mr Francis Bradley lay in situ, the hedgerow and the soldiers' positions, lines of sight, the topography and to make comparisons with the landscape as it is now in 2024.

Mr Magill recorded the distance from the hedge to the outbuilding to the rear of 60 Hillhead Road, close to where Mr Bradley's body was found. He recorded this as 30 meters (98ft). Soldier's A, B and C were positioned at the gap in the hedgerow. However, it cannot now be determined where exactly Francis Bradley would have been when the first gunfire was deployed. The narrative provided by Soldiers A and C record that Francis Bradley took a few paces into the gap between two outbuildings. Soldier A in his statement after-caution states that Mr Bradley bent out of view behind wood and rubbish, he stood up with a rifle in his hand, and took a couple of strides into the gap before Soldier A issued his warning of "Halt". Soldier A states that this man turned, he and another colleague deployed gunfire and he saw the gunman fall. There is no further note in his statement of Mr Bradley moving from his position.

Soldier B recorded that they took up position at the hedge line 35 to 40 meters to the rear of the outbuildings, with Soldier A to his immediate right and Soldier C beyond him. He records in his statement after caution that he saw a man bend down out of sight, and he thereafter concentrated on the other man, who was later identified as Bernard McLarnon. Soldier B did not see the other individual, said to be Mr Bradley, until he found his body accompanied by Soldier C.

Soldier C is the only soldier who details in his 1986 statement seeing the gunman move after he and another colleague deployed gunfire at the hedgerow. He estimated that they were positioned 40 meters from the nearest outbuilding. He records seeing the thinner man bend down, stand up again before taking a few paces towards the gap. It is at this stage that Soldier C could see that this individual was holding a rifle, Soldier A shouts 'Halt' and gunfire is deployed by both he and Soldier A. He does not state if this was an aimed shot or burst of gunfire. He said that he believed the gunman was trying to get up and engage them, at which point he deployed gunfire for the second time, and he believed the gunman ducked down out of sight. When he was midway from his original position and the gunman, he fired a further shot as he detected movement in the shadows. He fired his gun for the fourth time when he had moved further forward and stated the gunman was moving into a position to engage him.

Neither Soldier D nor E had a clear view of the farm or outbuildings from their position at the hedge, and neither soldier saw the gunman moving. Soldier E recorded seeing a body laying following the fourth burst of gunfire. Soldier E attributes the last two bursts of gunfire to Soldier C.

Four maps were produced by the RUC mapper in 1986. Each map had a map/drawing scale. The map referred to as 'Sheet 3: Plan at 60 Hillhead Road area', had a key detailing items of note marked A to L, as well as the location of the spent cases. It records the spent cases as being found a short distance behind the gap in the hedgerow. This may go some way to explain the difference between the distance provided by Soldier A and Soldier C as to their position from the outbuilding and that provided by Gavin Magill, who measured from the closest point of the hedgerow to the closest outbuilding. Casings, when fired, do not fall immediately to the feet of the shooter and can be propelled some distance. The ballistic evidence from Mr Mastaglio and Ms Kiernan provides that when a shot is fired from a gun, such as that used by Soldier A and C, casings can be ejected up to 10 meters and to the right of the shooter. There is no analysis in the RUC maps of the position of the soldiers at the hedgerow nor as they advanced forward. Maps were marked by the soldiers and exhibited to their statements but they do not provide detailed measurements,

Mr Magill stated that the changes to the front of 60 Hillhead Road were purely aesthetic. I note from the photographs produced that the same house remains in place at 60 Hillhead Road; some alterations have been made to the outbuildings, the hedge row remains to the rear of the property but the gap between the outbuildings to the rear of the property, where Mr Bradley is said to have been seen with the rifle, is no longer there and this gap is now replaced with an outbuilding. The gap where the soldiers were positioned at the hedgerow is no longer in existence due to further growth in the hedgerow.

Mr Magill confirmed in evidence that streetlights have since been installed on the Hillhead Road. These were not in situ in 1986.