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IN THE CORONER'S COURT IN NORTHERN IRELAND

IN THE MATTER OF AN INQUEST INTO THE DEATHS OF
JOHN DOUGAL, PATRICK BUTLER, NOEL FITZPATRICK,
DAVID McCAFFERTY AND MARGARET GARGAN
(‘THE SPRINGHILL INQUEST’)

VERDICTS, FINDINGS AND REASONS

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SCOFFIELD J (sitting as a coroner)

1. INTRODUCTION

Opening remarks

1.01 Five people lost their lives in the Springhill and Westrock area of Belfast on 9 July 1972: they were, in increasing order of age, Margaret Gargan, David McCafferty, John Joseph Dougal, Patrick Joseph Butler, and Father John Noel Fitzpatrick. Sadly, this was a turbulent time when many were being killed in the city, and elsewhere in Northern Ireland, at the height of what we euphemistically refer to as ‘the Troubles’.

1.02 An inquest into these deaths was held in July 1973, before a coroner and a jury, which returned open verdicts in respect of all five deaths. However, on 22 December 2014, the Attorney General for Northern Ireland directed that a further inquest into each of these deaths be held in the exercise of his power under section 14 of the Coroners’ Act (Northern Ireland) 1959 (‘the Coroners’ Act’). The Attorney General was empowered to do so where he had reason to believe that a deceased person had died in circumstances which in his opinion made the holding of an inquest advisable – which he so considered in these cases.

1.03 I was appointed as a coroner in December 2022 and, shortly afterwards, was assigned the inquests into these five particular deaths. For convenience, I refer to this lengthy document as a ‘ruling’. However, it is important not to misunderstand the nature of its constituent parts. Towards the end of the document I set out my findings in brief, narrative form in relation to the deaths as part of the verdict in each case. Those findings and the verdicts – set out in Chapter 13 – are the legally significant part of the ruling.

1.04 This document also sets out, at very much more considerable length, a discussion of the evidence received during the inquests; my assessment of it; and the reasoning behind the findings which I have reached; as well as some discussion of the legal principles I have applied in addressing these matters. That is an approach which has been commended by the Court of Appeal in this jurisdiction in recent authority which is discussed in Chapter 2. It is also in deference to the detailed and comprehensive closing submissions provided by the properly interested persons (PIPs) at the end of the evidence-gathering. I emphasise again, however, that the legally effective part of the ruling is limited in scope. Moreover, I have not determined, nor do I purport to determine, nor would I be permitted to determine, any issue of civil or criminal liability. I have broken the discussion down into chapters for ease of reference and understanding but no chapter is hermetically sealed: a variety of issues and evidence are discussed across various chapters and, to that extent, this ruling should be read as a whole.

1.05 Strictly speaking, there have been five separate inquests, but they were case-managed and heard together as one, collectively known as ‘the Springhill Inquest’.

That reflected the commonality of issues, the overlap in evidence, the relative proximity in time and location between the deaths, and the fact that many properly interested persons in each inquest had a legitimate or proper interest in the subject matter of the others. For convenience, unless the context otherwise dictates, I refer below to 'the inquest' as meaning each and all of the inquests; and deal with all of the inquests in this one, single ruling. I am conscious, however, that there were five separate individuals who lost their lives, each of whose cases has received individual consideration. (I am also conscious that the inquest quite properly could have been, and perhaps should have been, referred to as 'the Springhill/Westrock inquest', in view of the location where at least two of the deceased met their deaths. However, the simpler 'Springhill Inquest' gained traction.)

1.06 As I have already done at the opening and conclusion of the inquest hearings, I wish to express again my condolences and sympathies to the next of kin of the deceased, and their wider families, at the loss of their loved ones. The purpose of this inquest was to investigate the circumstances of the deaths, with an obligation to follow the evidence where it led. Nonetheless, it is appropriate to recognise that, whatever those circumstances, those whose deaths this inquest touches upon were much loved and missed family members. As I have also said before, the families of the deceased conducted themselves with dignity and fortitude throughout the evidence which, I am sure, was harrowing for them at times.

1.07 I also wish to express my gratitude to the legal teams who have assisted me in the course of this inquest by eliciting and testing evidence and making detailed submissions on that evidence and on the law and procedure which I was required to apply. My principal thanks go to my own legal team: Martin O'Rourke KC; Ronan Daly and Michael McCartan of counsel; and Sínead Mallon, Solicitor, of the Legacy Inquest Unit (LIU). However, all of the counsel and solicitors instructed in the inquest for PIPs have been of assistance to me throughout the proceedings. They are listed in the heading to these findings. They are all to be commended for the skill and diligence with which they represented their clients' interests in these proceedings. It would be remiss of me not to acknowledge the additional burden upon the legal teams, and effort required of them, which arose as a result of our shared determination to conclude the inquest hearings before the expiry of the deadline for that purpose contained in section 16A of the Coroners Act (Northern Ireland) 1959 ('the Coroners Act'), as inserted by section 44 of the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 ('the Legacy Act').

1.08 I formally opened the inquest - pursuant to rule 4 of the Coroners (Practice and Procedure) Rules (Northern Ireland) 1963 ('the Coroners' Rules) - on 20 February 2023. On 15 September 2023, I acceded to an application which had been made by the next of kin of the deceased to bring forward the then-listed dates for the hearing of the inquest with a view to completing it in advance of the Legacy Act deadline of 1 May 2024. I did so because by then I had heard a significant degree of evidence; many had spent a long time waiting for the inquest; the inquest was a Year 2 inquest in the LIU's Five Year Plan; and a very significant amount of preparatory

work had already been done and hearings had been commenced. It was challenging to conclude the inquest (save for the findings) on time. It required robust case management, flexibility in working arrangements, and (perhaps above all) a commitment on the part of the legal teams involved to put their shoulders to the wheel. They rose to the challenge.

1.09 There were some 70 days of hearings, leaving aside preliminary hearings and reviews. Following completion of closing submissions on behalf of each of the PIPs, I concluded the evidence-gathering portion of the inquest on 30 April 2024.

1.10 I regret that it has taken such a long period of time for these findings to be produced. There was a very great deal of evidence in this case, both oral and documentary, as well as lengthy, comprehensive submissions from many parties on complex issues of law and fact. I obviously wanted to consider the evidence and submissions carefully and give them the thought and reflection which they deserve. Unfortunately, other judicial responsibilities meant that I could not simply focus on producing the findings in this inquest alone. It is appropriate to recognise that I had hoped to provide them much sooner than now; and I am grateful to the PIPs for their patience in awaiting them. I am also grateful to the Lady Chief Justice for the considerable support provided in recent months to release me from other judicial work to finalise this ruling.

The difficulties in conducting an inquest of this nature

1.11 It is important to acknowledge the difficulties which exist in conducting an inquest at this remove, some 50 years after the deaths which are the subject of the proceedings. In his opening at the commencement of the hearings, Mr O'Rourke remarked that "by any standards, the task facing this inquest is difficult and complicated". There are a number of reasons for this. Leaving aside the number of deaths which are being dealt with at once, the passage of time undoubtedly renders the task of piecing together a detailed and accurate narrative more difficult. First, a number of relevant witnesses may have passed away. Second, others may be too infirm to give evidence, although the special measures adopted during the course of the inquest have hopefully minimised the impact of age or infirmity where reliable evidence is still available from a witness. Third, some potential witnesses may have moved away and may not be able to be traced; or may not have come forward because they were unaware of the proceedings. This is despite steps taken to seek to minimise this risk, such as the public witness appeal (undertaken by way of press notice on 5 July 2022) and the additional publicity which the inquest hearings generated.

1.12 Just as importantly, those witnesses who were available had to overcome the challenges of recollection which arise in relation to historical investigations of this kind. Many coroners hearing legacy inquests have remarked upon the difficulties posed by failing memories. (By way of example only, see the comments of His Honour Judge McGurgan in the *Geddis Inquest* [2022] NICoroner 2, at paras [8] and

[416]; and His Honour Judge Irvine KC in the *Bradley Inquest* [2024] NICoroner 30, at para [8].) That was in my view likely to be exacerbated in the present case by the fact that a significant number of the witnesses were children at the time of the relevant events.

1.13 Many witnesses, particularly civilian witnesses, professed to have a clear recollection of events, indicating that, by reason of the traumatic or dramatic nature of their experiences, matters were indelibly etched on their memory. I have little doubt that this may be true in some cases. However, experience shows that honest witnesses may sometimes be mistaken in their recollection. In this case, there was a number of instances of conflicting versions of events where (in my assessment) the witnesses were each giving their own honest account, of which they were firmly convinced, but in circumstances where someone simply must be mistaken. I have also been conscious of the possibility of others' recollections or accounts, or a community narrative, having come to influence a witness's account (whether consciously or subconsciously).

1.14 In circumstances where some oral witness accounts may be inherently unreliable at this remove, one naturally turns to contemporaneous documentary evidence as a potentially more reliable source of information. That too has proven problematic for a variety of reasons. In the first instance, the events which are the subject of this inquest happened long before the digital age; so I did not have the benefit of contemporaneous photographs or video recordings of the relevant events, such as would likely be available if a similar incident occurred today. Some contemporaneous records are available, principally the army radio logs, which are analysed in detail below.

1.15 Witness statements were taken from a number of soldiers who discharged shots in the course of an investigation conducted by the Royal Military Police (RMP). For security reasons, each soldier giving such a statement was assigned a cipher ('the ciphered soldiers' and the 'the ciphered statements' respectively). The reliability of those statements is addressed in detail in the course of this ruling, along with a discussion of the circumstances under which they came to be taken. Of principal significance, however, is the following: the 'cipher list' explaining the actual identity of each of the ciphered soldiers has now been lost. Much time in the course of the coronial investigation was therefore spent seeking to ascertain the identity of the soldiers who provided the ciphered statements. That task has largely been fruitless.

1.16 In 1972, the standards of investigation of such incidents were also different from current practices. This is addressed in further detail below when discussing the police investigation, such as it was, in relation to the deaths which are the subject of this inquest. It is fair to recognise that, given the situation on the ground at the time of these deaths, it is entirely unrealistic to expect that the police (or indeed the army) could or would have set up a crime scene and conducted detailed forensic examination at the locus of the shootings. However, other than the taking of statements from the ciphered soldiers by the RMP, any investigation appears to have

been cursory. There is therefore little by way of contemporaneous investigative material from the police which has been of assistance to me.

1.17 The most obvious exception to the lack of contemporaneous investigative material (barring the ciphered statements) is the result of the postmortem examinations conducted by the state pathologist.

1.18 A further complication arose in this case in the following way. Rule 9(1) of the Coroners' Rules provides that: "No witness at an inquest shall be obliged to answer any question tending to incriminate himself or his spouse". By virtue of rule 9(2), where it appeared to me that a witness had been asked such a question, I was obliged to inform the witness that he or she may refuse to answer. The privilege against self-incrimination was relied upon by a number of witnesses in this inquest. Not only was it relied upon by military witnesses (who may have discharged rounds which struck civilians or been present when such rounds were discharged and, therefore, may be at risk of prosecution if it were thought that they had been guilty of causing death or injury by an unlawful use of force either as a primary or secondary party) but it was also relied upon by many civilian witnesses. The circumstances whereby, and basis upon which, rule 9 warnings came to be given to such witnesses is set out in some detail in *Springhill Inquest Ruling (No 5) on Privilege Against Self-Incrimination and Rule 9 Warnings for Civilian Witnesses* [2024] NICoroner 8 ('Ruling No 5'). Although witnesses were encouraged to provide as much information as they could in relation to potential criminal conduct on the part of others of which they were aware, the possibility of their themselves having committed an offence by reason of the non-reporting of such activity meant that the privilege could be asserted. On each side of the competing narratives therefore, both military and civilian, there was an absence of some potentially important evidence by virtue of the assertion of this privilege. I return to what, if anything, should be drawn from that at a later point in the reasons for my findings.

1.19 In view of the difficulties presented in an inquest of the above type, I have simply had to do my best, on the evidence available and applying the appropriate standard of proof, to reach a conclusion on the matters addressed in the findings. These do not, and do not purport to, answer every question which has been raised by the evidence, or competing narratives, in relation to the subject matter of this inquest. In my view, it would be impossible to do so at this remove, if it were ever possible.

Personal statements

1.20 The first day of hearings involved the giving of personal statements by the next of kin of each of the deceased or representatives of their families. In some instances, the maker of the statement was also a witness of fact who was then recalled at a later stage in the hearings to give evidence of fact relevant to how one of more of the deceased came by their death. Generally speaking, however, the personal statements – also referred to as 'pen pictures' – were simply a means by

which the families of the deceased could remember and pay tribute to their deceased loved ones, outline their interest in the inquest proceedings, and provide non-contentious details which may be of assistance to me in terms of the particulars required to be provided in relation to the registration of the death. It is now a relatively common feature of inquests, particularly legacy inquests, for such statements to be provided at or near the commencement of the hearings.

1.21 Mary Judge (née Dougal) his sister, gave evidence in relation John Dougal. John was the son of Jim and Rose Dougal and had seven siblings. Ms Judge described his loving relationship with them; and his education at Sacred Heart Primary School, St Gabriel's Secondary School and, later, St Peter's Secondary School. John was interested in hurling and handball. It had also been his ambition to join the British Army when he was younger; and he was involved with the army cadets for two years when he was 13-14. His involvement with the cadets at a barracks on the Antrim Road ended because of the family's move from North Belfast to West Belfast, having been intimidated out of their home in North Belfast in 1969. John left school in 1971 and went to work at Casey's Bottling Company at Divis Street. Ms Judge's evidence described the effect John's shooting and death had on the family. It was particularly difficult for her mother who worked as a cleaner at the Royal Victoria Hospital; however, "notes would be left in her locker by co-workers with messages about John's death". It was clear from Ms Judge's evidence that the family deeply missed John and had waited for a long time for this inquest to give them "some answers".

1.22 Jacqueline Butler gave evidence in relation to her father, Patrick Butler. Patrick was the son of John and Elizabeth Butler; and he had three siblings. Patrick married his wife, Margaret, described as the love of his life, on Easter Monday in 1957. In due course, they moved from their home in the Lower Falls area to the Shore Road area and then, later, Westrock Drive, when Jacqueline Butler herself was born (the sixth and youngest child of the family). Patrick is described as the breadwinner of the family, a hard-working man who was employed by Belfast Corporation for most of his life as a bin man. The clear picture which emerges from the personal statement is that Mr Butler was a family man and 'happy-go-lucky', a keen singer and much enjoying a pint with his friends in the local club. The personal statement provided strayed into providing substantive evidence about the events of the relevant evening; but a key point is that the family remember Mr Butler's final words to his wife reflecting his concern for her safety, more than his own. Mr Butler is described as his children's "hero", who is loved, missed and recalled every day. After his death, the family changed forever. The statement describes his children's childhood ending; that the Butler children had to grow up much more quickly than they should have; and that Mrs Butler had to adapt overnight to support the family financially. To her great credit, she attended night school and later became a nursery school teacher, whilst being a single parent to six children.

1.23 Betty Kennedy provided a statement in relation to her brother, David McCafferty. This was read on her behalf by Ms McMahon, a cousin. David

McCafferty was the son of David (known as Davy) and Norah. He had six siblings. He attended St Aidan's Primary School and then St Thomas' School. The personal statement indicates that he had a placid personality and was well liked. He loved nature and animals, plants and flowers. He is said to have spent a lot of time with Mother Teresa and her nuns who lived in Springhill; he loved to go round to them and help make mass cards for the deceased and those who were sick. The picture painted of him is of a good-natured, kind and caring son and brother. She says that the family never got over the death of David and was left heartbroken, still finding it difficult to talk about what happened. She says that her brother is very much loved and missed every day and that he deserves the truth to be told about his death, which the family feel was avoidable.

1.24 Harry Gargan gave evidence in relation to Margaret Gargan, who was his sister and a year older than him. She was the eldest child of Henry and Ellen Gargan (known as Harry and Nellie), a twin to Bernadette, and one of nine children of the family in total. The family moved from the Short Strand area to the Westrock Bungalows in 1961 (when Margaret was still a toddler), which her father thought was "in the countryside". He described his and Margaret's involvement in helping with the bingo in the local area. He also said that, from an early age, Margaret was a "tomboy" who loved football and was very good at it. She hated skirts and would go to school in her trousers, changing into her uniform before she went into school and then taking her school skirt off again as soon as she came out. She attended St Rose's School. Mr Gargan's statement then describes his experiences that night, which are dealt with later, but then outlines the effect of Margaret's loss on the family. After the funeral, his mother could not face going back to the house, so the family of eight went to stay in the grandmother's house in another part of the city with their aunts and uncle. The devastation felt by the family was horrendous, especially for his mother who could not cope with the grief. His father blamed himself for sending her to the house and her brother Harry felt guilt too because Margaret had volunteered to go in his place. All of the siblings were broken-hearted and found it difficult to watch their mother struggle to cope. She died at the age of 57. Mr Gargan says "the hole in her heart from the loss of our Margaret could never be mended".

1.25 Ruth O'Reilly gave evidence in relation to Noel Fitzpatrick. His lengthy pen portrait was compiled by Ms O'Reilly and Ms Christine Wilson, each nieces of Fr Fitzpatrick. They were keen for him to be remembered for the life he lived. Their statement provided helpful background about his family and upbringing. Noel was the son of John and Mary (known as 'Mamie'); and he had a brother and a sister. He attended Holy Family Primary School and then St Malachy's College. The family had a strong Catholic faith and two brothers, Raymund and Noel, entered the priesthood. In Noel's case this was after he had trained and worked briefly as a chemist. He was ordained in 1961. Much of the personal statement relating to Fr Fitzpatrick addressed his ministry. He was described as a gentle and charismatic person, with gifts of insight, empathy, compassion and open-heartedness. He served as chaplain to the Dominican Convent College in Portstewart and then as

Curate in the Parish of Loughguile, before being appointed Curate to Canon Murphy in St John's Parish, Belfast, with special responsibility for Ballymurphy in 1969, living in St John's Presbytery on the Falls Road with other priests of the parish.

1.26 A focus of this personal statement was Fr Fitzpatrick's ministry in the early years of the Troubles. He is said to have worked to maintain as normal a life as possible for parishioners, establishing relationships and being active in social work to facilitate this. It is a notable feature of the statement that Fr Fitzpatrick made a will on 24 August 1971, shortly after the deaths in Ballymurphy (including that of his friend and colleague Fr Hugh Mullan) which were the subject of the Ballymurphy Inquest presided over by Keegan J, which his family understood to illustrate his knowledge of the dangers he may face in his ministry in that area. He was involved in saying mass for internees at Long Kesh Detention Centre. He is also said to have strived to build relations with the military, including those in the Parachute Regiment stationed in Henry Taggart Hall, and attended to wedding papers of soldiers marrying local girls and acted as a liaison to family who may have had a son in the army. He spoke well of Fr Gerry Weston, the Catholic Chaplain of 1 Para who was killed in an Official IRA bomb attack in Aldershot in February 1972. In turn, his own efforts to broker peace were recognised by some in military circles. The personal statement recounts a letter from Major Peter B Redwood (of C Company, 1 Battalion, The King's Own Scottish Borderers) to Canon Murphy on 11 July 1972 offering sympathy on the death of Fr Fitzpatrick and praising his support, the effect he had on soldiers stationed in Ballymurphy in the preceding year and "his moderating influence and his leadership in the cause of peace". A range of other correspondence sent to Canon Murphy and Fr Fitzpatrick's brother Raymund - from clergy and others - is cited in the personal statement as testimony to his qualities and the sense of desolation felt at his death at the age of 42. The family's position, and that of those who knew him, is that Fr Fitzpatrick would have forgiven those responsible for his death.

1.27 An understandable, indeed predictable, but striking, common theme amongst the personal statements was the sense of loss felt by the families of the deceased, perhaps most acutely by their parents but also by siblings. In many cases, there is a belief - no doubt genuinely held, although perhaps without any firm evidential foundation - that the family death contributed to subsequent physical health difficulties experienced by other family members. The effect on family members' mental health is undeniable.

1.28 Another striking motif of the statements is that relatives of the deceased felt they were simply left to get on with life, with little or no counselling or support, such as one might expect in more recent times; and that "nothing was done" in terms of investigation or accountability. Several of the statements describe the families' difficulties moving on or achieving a degree of closure without knowing the full facts of what occurred. It is hoped that the inquest process which has led to the verdicts and findings which are set out in Chapter 13 (albeit with the frailties in the process mentioned above) will have provided, and that the verdicts and findings

themselves will provide, at least some comfort to the families that there has now been a much more full and public inquiry into the deaths of their loved ones than there had been previously; and that they may feel they have some more answers now than before.

Case management of the inquest

1.29 For the purposes of case management, the various deaths in the inquest were initially grouped into three 'incidents', sometimes referred to as 'modules' during the course of the inquest process. Incident 1 related to the death of John Dougal (and, insofar as relevant, the involvement of, and injuries to, Martin Dudley and Brian Petticrew). Incident 2 related to the deaths of Fr Fitzpatrick, Patrick Butler and David McCafferty. Incident 3 related to the death of Margaret Gargan. I have used this same taxonomy within parts of this ruling, particularly in relation to the discussion of the evidence in respect of the various incidents in Chapters 9 to 11. I emphasise, however, that in both the inquest hearings and this ruling none of the incidents has been treated as entirely divorced or unrelated to the others. Nor have I assumed that the incidents followed in chronological sequence. Much of the evidence was relevant to more than one incident.

The summaries of evidence contained in this ruling

1.30 I have considered all of the evidence which was given by witnesses. It should go without saying that, when summarising evidence in the course of this ruling, I have not referred to every piece of evidence given. Had I sought to do so, this already lengthy ruling would have run to thousands of pages. Nor have I set out every particular instance where a witness's evidence was (arguably) inconsistent with another account or answer which they gave or inconsistent with an account from another witness. It would simply not be practicable to do so. In summarising the evidence, I have tried to refer to the main points of a witness's account, as I discerned it following their examination by my own and other counsel. The summaries are not exhaustive.

1.31 Where there was a particularly significant conflict this may be mentioned. However, the nature of the evidence-gathering process in a case like this is such that there are bound to be inconsistencies of varying degrees of significance. Witnesses will often have given previous written or oral accounts to earlier inquiries; they then provide a written statement to the inquest through the coroner's investigator or their own representatives; they then supplement that with oral evidence; and, finally, they are questioned in close detail in turn by several counsel, each with differing interests to represent. In those circumstances – particularly where PIPs' counsel, entirely legitimately, may seek to exploit ambiguity, sow or downplay confusion, or underscore or undermine a previous answer, with a variety of materials at their disposal for this purpose – it is unsurprising that witnesses are not wholly consistent or coherent at all times. That is before one factors in the frailties of age and memory, the potentially confusing nature of the events being described, and comparison with

other witnesses' accounts who may themselves have been confused, mistaken, inconsistent or even disingenuous.

1.32 When summarising evidence, I have generally focused on the sworn evidence which was provided to me directly in the course of the inquest (taking into account, of course, previous accounts given by the witness, particularly where the contents of those accounts were the subject of questioning by my own counsel or counsel on behalf of PIPs.) The sworn evidence frequently included the adoption of a statement prepared for the purpose of inquest, given through my investigator or (on some occasions) through the witness' own representatives, which then formed the starting point for the evidence.

1.33 As a *very* broad generalisation, relevant civilian evidence has been summarised within each incident in the order in which the witnesses were called to give oral evidence. In some instances, however, I have dealt with witnesses in a different sequence where I considered there was a reason to do so which may aid the analysis of the evidence or the reader's ability to follow it. This might perhaps be because of the range of matters the witness addressed, the timing of the incident or occurrence to which their evidence speaks, or because of how their evidence inter-relates to that of another witness.

1.34 Where a witness's name has changed, usually because of later marriage, I have generally tried to use the name which they had at the time of the events in question since, in some circumstances, it seems to me that that will make for easier understanding in the context of other references to their family or where they lived. On occasions I do not do so (for instance, in the case of Margaret Simpson) where this might lead to confusion with another witness of the same surname who also gave evidence.

1.35 When dealing with the evidence of a witness, I have frequently just set out the events as they described them without, on every occasion, commencing with, "The witness said...", "The witness's evidence was...", or some other such formulation. The mere recitation of a witness's evidence in those terms should, of course, not be taken as my own description of the event or my own findings, nor any indication as to whether or not the witness's evidence was accepted or believed. It is simply for ease of writing and the understanding of the reader.

1.36 I have cited relevant times in two different formats, both 24-hour and 12-hour clock. This merely reflects the fact that, generally, where the time comes from a military source the 24-hour clock was used and where the time comes from a civilian source the 12-hour clock was used. There is no particular significance to this and the times are, of course, interchangeable.

2. SCOPE, ARTICLE 2 ECHR AND RELEVANT STANDARDS

The scope of the inquest

2.01 Shortly after my appointment as the coroner designated to deal with this inquest, I produced a scope document setting out the proposed scope of my inquiry. This was based, to a significant degree, on the scope which had been adopted by the coroner in the Ballymurphy Inquest (see [2021] NICoroner 6, at para [11]). The document I used, which was circulated to all PIPs, is set out in full at Appendix C.

2.02 The scope document was expressed to be a draft working definition of the scope of the inquest proceedings which was to be, and indeed was, kept under review. In the event, no PIP raised any objection to the scope, nor suggested any significant changes to it. As the inquest proceeded, therefore, the working scope document crystallized into the actual scope of the inquest.

2.03 One issue of significance was not addressed definitively in the scope document, namely the question of whether or not Article 2 ECHR applied to the inquest. Rather, I indicated that I intended to invite submissions in due course as to whether this inquest was required to be an Article 2 compliant inquest (and, if so, the significance of that). At the time when the working scope was adopted, the decision of the UK Supreme Court in the appeal against *Re Dalton's Application* [2020] NICA 26 was awaited. In due course, that judgment, and several others of import, were handed down by the senior courts. I discuss a number of these below.

2.04 Whether or not Article 2 was engaged, I nonetheless considered that, a fresh inquest having been directed by the Attorney General, it was proper for the inquest to consider a wide range of matters. Obviously, and foremostly, the inquest had to examine the deaths of the five deceased identified at para 1.01 above. I set out to examine the deaths individually and, so far as was consistent with the objective of determining how the deceased came by their deaths, collectively. The inquest was to consider, and has considered, the four basic factual questions, as required by rules 15 and 22(1) of the Coroners' Rules, namely the identity of the deceased; the place of death; the time of death; and how the deceased came by their deaths.

2.05 At para 4 of the scope document, I indicated that, in considering how the deceased came by their deaths, I would examine in evidence whether the deaths were caused by gunshots and, if so, the source and circumstances in which the gunshots were discharged. This included an examination of the circumstances pertaining in the Springhill area at or about the time of the deaths, including any military operation at that time.

2.06 In examining the circumstances identified immediately above, the scope document indicated that this would be with reference in particular to the following matters, namely:

- “(i) Whether the deceased were killed by military gunfire or gunfire from Republican and/or Loyalist paramilitaries.
- (ii) The circumstances and purpose of the military operation, including the planning, control, and performance of the military operation on the part of the relevant authority.
- (iii) The management and deployment of any intelligence available to those authorities at the relevant time and the actions of those involved in the operation at all stages.
- (iv) The instructions given to those involved in the military operation.
- (v) The training and experience of the military personnel involved in the operation.
- (vi) The state of knowledge of those involved, at all stages of the operation.
- (vii) 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 the Royal Ulster Constabulary) tolerated the deployment of unnecessary or unreasonable force by soldiers.
- (viii) The nature and degree of the force used.
- (ix) The agreement between the Royal Ulster Constabulary and Royal Military Police and post-incident procedures which were in existence at the time of the shootings, the effect of that agreement and those procedures on the investigation into the deaths and the extent, if any, to which the agreement and procedures bear upon the issues raised above (including the question of whether the agreement and procedures impacted on any decision at any level to have recourse to lethal force).”

2.07 The further paragraphs of the scope document indicated that the inquest would also consider the planning of the deployment of the military on the dates on which the shootings occurred and whether the deployment was planned, controlled and performed in such a way as to minimize to the greatest extent possible the need for recourse to lethal force; as well as “whether the actual use of force (by whomever it was used) was justified in the circumstances of each death”. The inquest was also to examine, insofar as is necessary to address the above matters, such evidence as existed concerning the circumstances in which the deceased came to be at the locus of death at the relevant time; and the extent, if any, of public disorder and/or paramilitary activity in the vicinity of each of the deaths.

2.08 The document finally indicated that the definition of scope which was set out in it may be subject to further revision, as appropriate, prior to and in the course of the inquest proceedings. No PIP sought to persuade me to alter the scope of the inquest which was set out in that document although, as discussed further below, significant further argument was later had – in light of further decisions of the courts – as to whether or not Article 2 was engaged in the inquest and the implications of that.

Article 2 ECHR

2.09 Article 2 ECHR provides for the right to life. As is well known, it has two aspects: the substantive prohibition on the taking of life (save in limited circumstances) and the procedural obligation to carry out an effective investigation into alleged breaches of the substantive right.

Article 2 engagement

2.10 In *Re Dalton's Application* [2023] UKSC 36, the Supreme Court addressed the temporal limits of article 2 under the Human Rights Act 1998 (HRA). The HRA came into effect on 2 October 2000. The result of the Supreme Court's judgments in *Dalton* was that, if the death occurred more than 12 years before 2 October 2000, article 2 does not apply (unless the ‘Convention values’ test applies). For those deaths occurring between 10 and 12 years before 2 October 2000, article 2 will only apply in exceptional circumstances (again, leaving aside the Convention values test), where the original investigation into the death was seriously deficient or non-existent and the bulk of the investigative effort which has taken place, or ought to have taken place, post-dates the key date of 2 October 2000.

2.11 In the present case, the deaths all occurred in 1972. Accordingly, applying *Dalton*, article 2 is not engaged in relation to the investigation into these deaths unless, either applying the Convention values test or on some other basis, article 2 can be grafted on to the inquest despite the historic nature of the incidents giving rise to the deaths.

2.12 In *Re Bradley and Duffy's Applications* [2025] NICA 30, a case concerning deaths in 1986 and 1978 respectively, the next of kin of the deceased sought to establish that the article 2 procedural protections applied in their cases, notwithstanding that they fell outside the temporal limit set out in *Dalton*. This was on the basis either that the Supreme Court in *Re McCaughey's Application* [2011] UKSC 20 had indicated that all running inquests should be conducted in an article 2 compliant way or because reliance on article 2 rights was permitted under sections 7(1) and 22(4) of the HRA since the coronial proceedings had been brought by or at the instigation of a public authority. Similar arguments were raised in the present inquest by the next of kin (at a time before the Court of Appeal addressed the matter in *Bradley and Duffy*, and, indeed, before this had even been addressed by the High Court in that case).

2.13 At High Court level, Humphreys J (then also the Presiding Coroner) held that, if the argument based on the *McCaughey* case was correct, it would render the decision of a seven-justice panel of the Supreme Court in *Dalton* “virtually meaningless”: see *Re Bradley and Duffy's Applications* [2024] NIKB 12, at para [95]. He summarized the current legal position, post-*Dalton*, as follows (at para [99] of his judgment):

“The principle of legal certainty, espoused by all parties to this litigation, delivers the following outcomes:

- (i) No death which occurred before 2 October 1988 can engage the article 2 procedural obligation as a matter of domestic law, save where the Convention values test is met. This is the fixed and outer limit of the genuine connection test;
- (ii) Where a death occurred between 2 October 1988 and 2 October 1990, the article 2 obligation may be engaged where:
 - (a) The original investigation was seriously deficient; and
 - (b) The bulk of the investigative effort was carried out after 2 October 2000.
- (iii) Where a death has occurred between 2 October 1990 and 2 October 2000, the temporal aspect of the genuine connection test will be satisfied but the article 2 procedural obligation will only apply when much of the investigation took place, or ought to have taken place, after 2 October 2000;

- (iv) For any death occurring after 2 October 2000, the article 2 procedural obligation will apply;
- (v) If the Convention values test is satisfied, then the article 2 obligation will apply to a death occurring after 14 January 1966.”

2.14 This judgment was described by Colton J as “definitive” on the effect of the relevant cases on legacy inquests and of “enormous value to coroners” conducting such inquests (see *Re SGM15’s Application* [2024] NIKB 56, at para [51]). More importantly, however, on appeal the Court of Appeal adopted Humphreys J’s reasoning and held that the court was required to apply *Dalton*, the latest in a line of evolving jurisprudence (see paras [29]-[33] of the judgment of Keegan LCJ). The subsidiary argument based on section 22(4) of the HRA was also rejected, applying previous House of Lords’ authority, on the basis that inquest proceedings are in no sense brought *against* those participating in them within the meaning of the relevant phrase in section 22 (see paras [34]-[36] of the judgment of Keegan LCJ).

2.15 On the state of the law as it presently stands – set out in the judgments of superior courts (the Supreme Court and Northern Ireland Court of Appeal), which are plainly binding on me – the article 2 procedural obligation is not engaged in relation to the present inquest into the deaths in Springhill. That is because they each occurred in July 1972 *well before* the outside October 1988 cut-off point established in *Dalton*. The alternative bases on which the next of kin in the present case sought to contend that article 2 was nonetheless applicable have been rejected by the Court of Appeal in *Bradley and Duffy*.

2.16 The Convention values test imposes an extremely high hurdle for anyone seeking to rely upon it. What is principally in mind are serious crimes under international law, such as war crimes, genocide or crimes against humanity. There was no question of the Convention values test being satisfied in *Dalton*. It was not contended that this test was satisfied in the present inquests but, in any event, on the basis of the Supreme Court’s guidance on the matter provided in *Dalton*, I am confident that it is not satisfied in the present case, even taking the next of kin’s case at its height.

2.17 I proceed on the basis, therefore, that article 2 ECHR is not engaged in this inquest.

What does this mean for the findings?

2.18 In *Bradley and Duffy* the Court of Appeal went on to examine what the non-applicability of the article 2 procedural obligation meant in practice for the inquest. This is foreshadowed at para [37] of the judgment of Keegan LCJ. Indeed, the Lady Chief Justice set out to explain the effect of this “on inquests already in the system”.

It is clear, therefore, that she intended to set out general guidance for legacy inquests which were proceeding, including (it seems) the present inquest. At para [45] of her judgment, she referred to inquests “which have been heard and adjourned for judgment”, which would encompass the Springhill inquest. (I should point out that, insofar as the judgment in *Bradley and Duffy* at para [45] might be taken to suggest that “no issue was taken with the application of article 2” in the present case, that is incorrect. Since the decision in *Dalton*, the MOD has maintained that article 2 does not apply in this case.)

2.19 At the time of the Court of Appeal’s decision in *Bradley and Duffy*, the relevant coroner had already handed down his findings. Accordingly, the Court of Appeal had the benefit of these when considering the case and when setting out guidance on the approach to article 2 and non-article 2 cases respectively. This question – what difference in practice the applicability of article 2 will or should make – was referred to as “the consequential issue”.

2.20 Humphreys J had also considered this in his judgment at first instance in *Bradley and Duffy*, under the heading “What difference does it make?”, at paras [100] to [109] of his judgment. At para [100], he observed as follows:

“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.”

2.21 There are two significant matters emphasized here. The first is coronial discretion in the context of the particular inquest he or she is considering. The second is that the engagement or non-engagement of article 2 may not, in fact, make a pronounced difference in terms of the appropriate approach to scope, relevance, verdict and conclusions. Neither of these two themes was plucked from the air or from Humphreys J’s imagination. Each is grounded on earlier authority.

2.22 The first of the two themes, namely coronial discretion, was emphasized by Lord Bingham in his judgment in *R (Middleton) v West Somerset Coroner* [2004] 2 AC 182 at para [36] (dealing there with cases where a traditional short form verdict would not be satisfactory and a change of approach was required to consider the broader circumstances of the death), where he said:

“It must be for the coroner, in the exercise of his discretion, to decide how best, in the particular case, to elicit the jury’s conclusion on the central issue or issues.”

2.23 The second of the two themes, namely that the engagement (or not) of article 2 may not make much difference in practical terms, has been identified in a number of previous cases of high authority. In *R (Smith) v Oxfordshire Assistant Deputy Coroner* [2010] UKSC 29, Lord Phillips raised the following query (at para [78] of his judgment, where a ‘*Jamieson inquest*’ is shorthand for one in which article 2 is not engaged and a ‘*Middleton inquest*’ shorthand for one in which it is):

“I question whether there is, in truth, any difference in practice between a *Jamieson* and a *Middleton* inquest, other than the verdict. If there is, counsel were not in a position to explain it. Coroners appear frequently to have exercised considerable latitude as to the scope of the inquiry – the inquest into the shootings in Gibraltar that were the subject of *McCann v United Kingdom* 21 EHRR 97 exemplifies this. The form of the verdict will, no doubt be dictated by the evidence that emerges at the inquest, but I have difficulty with the concept that the inquest itself may in midstream undergo a significant change in character from a *Jamieson* to a *Middleton* inquest.”

2.24 In the *McCaughey* case in the Supreme Court (*supra*) at para [102], Lord Brown “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)”. In the *Smith* case, he had agreed with Lord Phillips that, in practice, the only real difference between a *Jamieson* inquest and a *Middleton* inquest was likely to be with regard to its verdict and findings, rather than its inquisitorial scope, with the scope of the inquiry being essentially a matter for the coroner (see para [152] of his judgment in *Smith*).

2.25 More recently, Popplewell LJ, sitting at first instance in *R (Morahan) v HM Assistant Coroner for West London* [2021] EWHC 1603 (Admin), expressed the view that:

“In many instances, of which the current case is an example, there will be no practical difference in the scope of the inquiry conducted at a *Jamieson* inquest from that at a *Middleton* inquest.”

2.26 It was for this reason that I took the view that, whether or not article 2 was engaged, the scope of the inquest should include the broad range of matters set out at para 2.06 above. The inquest could not properly perform its functions – of allaying rumour and suspicion and of investigating fully and exploring publicly the facts pertaining to a death occurring in suspicious, unnatural or violent circumstances (see *Re Gribben’s Application* [2017] NICA 16; [2019] NI 231) – without casting its net wide in respect of the evidence it should hear. As Sir Thomas

Bingham MR said in the *Jamieson* case (*supra*, at 14) the role of the coroner is to ensure that “the relevant facts are fully, fairly and fearlessly investigated”.

2.27 As noted by Lord Phillips in his observation in the *Smith* case, however, the area with perhaps the most scope for the engagement of article 2 to make a practical difference is when it comes to the verdict, the last (or one of the last) elements of the inquest process. One might rhetorically ask why so much time, effort and attention has been paid to disputes over the engagement of article 2 in previous cases (particularly in legacy litigation in this jurisdiction) if it truly makes no difference at all. The depressing reality that virtually every arguable point is fought to the death in these cases may be an explanation; but probably not a complete explanation.

2.28 In England and Wales, the practice appears to be to adopt one of a list of short form conclusions, with a narrative determination being given instead of or in addition to the short form conclusion in some cases. In this jurisdiction – particularly but far from exclusively in legacy cases – verdicts are now rarely given in a simple short form. Rather, as a matter of course verdicts are given by way of a narrative verdict. In both jurisdictions there is a prohibition on expressing an opinion on any issue of civil or criminal liability (see section 10 of the Coroners and Justice Act 2009 and rule 16 of the Coroners’ Rules respectively), although in England and Wales there is more flexibility in this regard since the prohibition relates only to such liability on the part of a named person.

2.29 Nonetheless, in *Jordan v Lord Chancellor* [2007] UKHL 14, Lord Bingham noted that, whilst a verdict of unlawful killing is not open to a coroner in Northern Ireland, an inquest may find facts which may point very strongly to the existence of criminal liability. The focus is on the fact-finding, rather than a qualitative judgment about the legality or otherwise of the killing.

2.30 In light of these matters, Humphreys J concluded in *Bradley and Duffy* (at para [109]) that:

“Given the potential scope for such findings, and the need for a full fact-finding 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.”

2.31 Significantly, Humphreys J thought that the difference may be academic not only in the running of the inquest but also in its *outcome*. That issue was squarely addressed in the judgment of the Lady Chief Justice on appeal, to which I turn shortly.

2.32 In the interim, however, Colton J considered a similar issue in *Re SGM15’s Application* (*supra*). In that case, relating to a death caused by a baton round fired by a soldier in 1975, it was clear (by the time of the judicial review brought by the

soldier in question) that article 2 ECHR did *not* apply in the inquest for the reasons outlined above. However, at the time of the inquest findings (which preceded the High Court decision in *Bradley and Duffy*) the coroner, His Honour Judge McGurgan, proceeded on the basis that article 2 was engaged. In those circumstances, SGM15 complained that the coroner had gone beyond his proper role. That case was rejected by Colton J in paras [54] to [64] of his judgment. There were a number of reasons for this. First, a wide scope document had been provided by the coroner which he understood had been agreed by the PIPs, it not having been made clear that the scope was not agreed or was challenged in any material respect. No application was made for this to be revisited at any point in light of an argument that article 2 did not apply. Second, and perhaps most importantly, in answering the statutory questions, the coroner was obliged to do so in a way which ensured that the relevant facts were “fully, fairly and fearlessly investigated”. In the judge’s view “any proper investigation” into the death “involved consideration of the circumstances in which the plastic baton round was fired” (see para [60] of the judgment). The coroner had to grapple with the very issue that gave rise to the requirement for the inquest. In light of that, on the facts of the case, it made “no difference to the outcome” whether or not article 2 was engaged. Third, the coroner had not made any finding of unlawful killing, nor any finding as to civil or criminal liability.

2.33 On appeal in the *Bradley and Duffy* case, the Lady Chief Justice considered that there was “much practical wisdom” in Lord Brown’s comments in *McCaughey* cited at para 2.24 above (which, I note, did not draw any distinction between the running of an inquest and its outcome in terms of the difference which the engagement of article 2 might make). She also noted that, although the coroner in the *Bradley* Inquest found that article 2 was not engaged, he nonetheless determined the scope of the inquest broadly “and provided comprehensive findings” after receiving submissions from all interested parties (see para [47] of the judgment of the Lady Chief Justice).

2.34 The point of contention in that case, in light of the submissions of the MoD and the PSNI, was not about the course of the inquest but simply “whether the inquest findings would be expressed in a different way” in the event that article 2 was engaged (see para [48] of the judgment of the Lady Chief Justice).

2.35 The Lady Chief Justice described the coroner as having given findings “in accordance with his duty to ensure that all relevant facts are fully, fairly and fearlessly investigated” (para [49]) and “in accordance with the relevant coronial rules” (para [50]). That was so even though the coroner expressed a view on the justification for the use of lethal force and the planning and control of the relevant operation (see para [52]). The Lady Chief Justice felt that these findings engaged “with the core issues which needed to be dealt with” (again, see para [52] of the judgment).

2.36 On one view, the suggestion that findings going expressly to the justification for the use of force are in accordance with the relevant coronial rules may seem surprising. Rule 16 of the Coroners' Rules, already referenced above, provides that the coroner shall not "express any opinion on questions of criminal or civil liability or on any matters other than those referred to in" rule 15 (the statutory questions as to who the deceased was; how, when and where the deceased came by their death; and the particulars required for registration of the death), aside from recommendations to prevent future fatalities. Rule 22(1) provides that the coroner, or jury as the case may be, 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".

2.37 The judgment of the Lady Chief Justice in *Bradley and Duffy* made a number of points in relation to this tension. First, she noted that the Coroners' Act of 1959 "could not have contemplated the type of inquest that is now being heard as a legacy-type inquest" and the lack of legislative change there has been in this jurisdiction since. The stagnant nature of the statutory framework is emphasized in paras [53] and [54] of the judgment.

2.38 Second, in those circumstances, coronial practice has simply "had to adapt to the unique context of legacy cases" (see para [53] of the judgment). Complex and contentious legacy inquests, such as this one and those in *Bradley and Duffy*, have almost invariably been heard by judges. In the absence of short form verdicts used in England, the coroner records their findings in narrative form, usually in conjunction with a ruling containing the narrative findings. This might be said to be a significant difference in practice and procedure than that adopted in England where more specific but restricted verdicts are available. The Lady Chief Justice considered that the procedure of providing narrative findings is "required" in Northern Ireland "given the complexity of these cases and the need to provide comprehensive answers to the question of how a deceased died during the Troubles" (again, see para [53] of her judgment). The necessity of dealing with the core contentious issues in this context, and of adapting practice to this end, is emphasized in paras [52], [53] and [54] of the judgment.

2.39 (Although Colton J's judgment in *Re SGM15's Application* is not specifically mentioned, it seems to me that the Lady Chief Justice was, in substance, here endorsing his approach, viz that legacy inquests simply must grapple with the very issues which have given rise to the requirement that they be held (or given rise to the Attorney General's direction for a fresh inquest); and, in doing so, will have to consider the circumstances in which the force causing the death was deployed.)

2.40 Third, the adaptation of coronial practice in the context of legacy inquests reflects, and is a result of, the development of the common law. In the Lady Chief Justice's judgment, the common law "exists to allow courts to adapt to changing needs", "is characterized by its practicality" and embraces principles of fairness and transparency which are also articulated in the article 2 procedural obligation. The

development and effect of the common law in this field is emphasized in paras [54], [55] and [57] of the judgment.

2.41 The unique nature of complex, contentious legacy inquests in this context is also recognized in paras [53] and [57] of the judgment.

2.42 The element of coronial discretion (referred to above at paras 2.21 to 2.22) was recognized in the Lady Chief Justice’s judgment at para [56]. Nonetheless, the Court of Appeal considered that “given the nature of legacy inquests in Northern Ireland some consistency is desirable”. The judgment should accordingly be read, in my view, as providing an indication of the approach which a coroner dealing with such an inquest *should* take in respect of their findings. As to that, the Lady Chief Justice continued as follows (at para [56]):

“We consider that the approach taken in *Bradley* was permissible under domestic law. There is no reason in principle why it cannot be followed in the 20 or so inquests, most of which are part heard, which were timetabled under the five-year plan but remain outstanding. To our mind, it would be unfair to the next of kin affected by these outstanding inquests if they felt in some way their inquest was dealt with in a less forensic and detailed way than the inquests which have already been heard, some of which, incidentally, would have fallen outside of temporal scope based on the current law. Another benefit of this approach is the avoidance of further litigation as it would be unfortunate if a coroner adopted a narrow approach in an inquest and then further litigation was pursued in the civil courts.”

2.43 At para [57] of the judgment, the Lady Chief Justice held up the findings in the Bradley Inquest as “a concrete example of how this approach works in practice in the unique circumstances of Northern Ireland legacy inquests”. In light of this endorsement, I have carefully considered the nature of the findings in the Bradley Inquest, made by His Honour Judge Irvine KC sitting as a coroner: [2024] NICoroner 30. He held that article 2 was not engaged in the inquest (see para [28] of his ruling). It is of note that he nonetheless considered the central question of ‘how’ the deceased came by his death to embrace consideration of whether the test for self-defence was met (see paras [17]-[18]); went on to make a finding as to the reasonableness and proportionality of the deployment of lethal force (see para [507]); included within the verdict a finding as to whether the use of lethal force was justified (it was: see paras [518]-[519]); and made findings about the planning and management of the operation (see paras [508]-[510] and [520]).

2.44 The Lady Chief Justice concluded by indicating that the approach adopted in these findings was “fact sensitive, does not conflict with statute, is reasonable and

fair, and is reflective of the needs of the people of Northern Ireland to achieve resolution in these outstanding cases” (see para [57] of her judgment).

2.45 In summary, the approach of the Lady Chief Justice in *Bradley and Duffy* was that, even in terms of the outcome of a legacy inquest in Northern Ireland, it was doubtful whether in reality there would be all that much difference between an inquest where article 2 was engaged and one where it was not. This was because:

- (1) Coronial practice has developed in this jurisdiction to require narrative verdicts in most cases. In complex and contentious legacy inquests, such a verdict must address the core issues which need to be dealt with in order for the coronial process to serve its proper purpose in this particular context.
- (2) In those circumstances, the permissible narrative in a legacy inquest should be broad and comprehensive; and may go beyond what one would expect in an inquest not within this unique category.
- (3) This adaptation has not only occurred in practice but as a result of the development of the common law in this field such that, in this unique context, a broad and comprehensive approach to narrative findings is not only reasonable, fair and reflective of the needs of society but also “does not conflict with statute”.
- (4) In other words, there is sufficient flexibility in the definition of “how” a deceased came by their death in rule 15 of the Coroners’ Rules, taken together with the purposes of an inquest and the scope of coronial discretion, to permit a coroner to conduct a legacy inquest in a manner similar to an article 2 inquest even where article 2 is not engaged, both as to inquiry and outcome.
- (5) In light of the considerations set out in the judgment, coroners in remaining such inquests should follow this approach as a matter of both consistency and fairness.

2.46 Whether or not the common law permits or requires a differential reading of statutory provisions in this way in different contexts, in the absence of a strong interpretative obligation such as contained within section 3 of the HRA, may yet be the subject of further debate. (The decision of Colton J in *SGM15* is presently under appeal, for instance, although that appeal was stayed pending the judgment of the Court of Appeal in *Bradley and Duffy*.) A more black-letter view of the matter is evident in some of the other passages of judgments in *Smith* (see, for example Lord Hope at para [95]; Lord Rodger at paras [114]-[115] and 126; Lord Walker at paras [150] and [153]; and, especially on the issue of verdict, Lord Mance at para [207]). However, that case was obviously not a case specifically dealing with a contentious legacy inquest in this jurisdiction. For present purposes, I consider that I should follow the approach of the Court of Appeal set out in the recent *Bradley and Duffy* case which was plainly designed to set out guidance to be followed by coroners in

this very specific context. In that regard, it is significant that Treacy LJ agreed in full with the judgment of the Lady Chief Justice, rendering it the majority judgment of the court. (For his part, McCloskey LJ preferred to reserve his views on that portion of the majority judgment dealing with ‘the consequential issue’: see the preface to his judgment. However, he agreed with the majority judgment on the central issues, namely that article 2 did not apply in either the Bradley or Duffy case in light of the decision of the Supreme Court in *Dalton*; and that neither the previous decision of the Supreme Court in *McCaughey* nor the provisions of section 22 of the HRA led to a different conclusion.)

2.47 I might also point out that the approach adopted by the Court of Appeal in *Bradley and Duffy*, particularly as summarized at sub-paragraph (4) at para 2.45 above, resonates with the observations of Weatherup J at para [33] of his judgment in *Re Hemsworth’s Application* [2009] NIQB 33. An important function of legacy inquests in this jurisdiction is to allay rumour and suspicion, which relates to the ‘how’ question, that is by what means the deceased came by his death. Unless that issue is addressed in more than a highly formal, mechanistic way, a key purpose of the inquest would be negated. That chimes with not only Lord Phillips’ pragmatic indication (quoted at para 2.23 above) that the form of the verdict will no doubt be dictated by the evidence that emerges at the inquest, but also with the indication by the now Lady Chief Justice, then sitting as a coroner in the Ballymurphy Inquest (at para [68] of the introductory ruling), that the inquest has to reach conclusions on major issues canvassed at it.

2.48 A recent example of this approach being followed in a non-article 2 legacy inquest is the ruling of Coroner Dougan in the inquest touching upon the death of *Desmond Healy* [2025] NICoroner 8. Applying the guidance in *Bradley and Duffy* the coroner in that case determined that she should nonetheless consider the use of lethal force in her findings. She made a finding that the degree or level of force used was “not justified” and considered this finding to have been reached in accordance with her “duties under common law” (see para [815]). At the same time, the MoD has drawn attention to the findings in the inquest touching upon the death of *Hugh Coney* (delivered on 13 March 2024), shortly after the High Court decision in *Bradley and Duffy* but before having the benefit of the Court of Appeal decision in that litigation, where the inquest jury, on direction from Coroner Toal, did *not* address the issues of justification or planning and control. In the inquest touching upon the death of *Thomas Friel* [2024] NICoroner 27, His Honour Judge Reel sitting as a coroner also exercised a considerable degree of restraint in the terms of the verdict in light of the non-engagement of article 2 (see para [233]); with the formal verdict being supplemented by some short, associated factual findings giving further detail in relation to what caused the death (see para [231]).

2.49 In my view, there remains an element of discretion, to be exercised by the coroner in the circumstances of each individual case, as to how far it is necessary or appropriate to go, both in terms of scope and the content of any narrative verdict, in order to comply with his or her obligations at common law in a legacy inquest where

article 2 is not engaged. However, the clear steer from the Court of Appeal is that the coroner should seek to ensure he or she addresses the key issues arising in the inquest to the extent that they can.

2.50 For my own part, I do not consider that the engagement or non-engagement of article 2 makes any appreciable difference in terms of the scope of this inquest. I indicated as much in the scope document; and no PIP took any significant objection to that approach. The Court of Appeal has indicated that narrative findings in a case such as this should address the core issues which need to be dealt with. As noted above, that is part of the coronial function of allaying rumour and suspicion. I hope that the brief narrative findings included within the verdicts in each case perform this function. However, in the exercise of my own coronial discretion, I consider that I should exercise restraint in purporting to find (and include within the verdict) that the shooting in each case was either justified or unjustified.

2.51 There is a tension which is currently inherent between the decision of the Court of Appeal in Northern Ireland in *Bradley and Duffy* and the approach taken by the Supreme Court in *Smith*. Unless and until the Supreme Court endorses the approach in *Bradley and Duffy* for legacy inquests in this jurisdiction, or declines to examine it by means of the refusal of leave to appeal in an appropriate case, or, on the other hand, overturns it, this tension will remain. In those circumstances, I consider that the balance ought to be struck by providing narrative findings on the core issues but declining to take the final step (as one would do, and be required to do as far as one could, in a case where article 2 ECHR was engaged) of addressing the ultimate question of whether or not the shooting was justified or unjustified. (That is not necessarily to say that it would be unlawful to do so, since the Court of Appeal described such an approach as permissible in the Bradley Inquest. It is merely that, in the exercise of my discretion, I consider the more restrained approach in *Friel* to be more appropriate than the more assertive approach in *Healey* in recognition of the fact that the scheme Parliament has established in the Human Rights Act 1998, as explained in *Dalton*, maintains some distinction between cases where article 2 is engaged and those where it is not.)

The standards to be applied

2.52 In light of the non-engagement of article 2 ECHR in relation to these deaths, in assessing the use of force by soldiers the relevant standard is simply that applicable in domestic law governing the use of such force, namely the law in relation to self-defence (and defence of others). It is also relevant to consider the self-imposed standards and procedures adopted by the army to govern the use of lethal force – which were plainly designed to reflect the law of self-defence – set out in a document referred to as the ‘yellow card’.

Self-defence

2.53 A person may use such force as is reasonable in the circumstances as he honestly believes them to be in the defence of himself or another. In the recent *Coagh Inquest* [2024] NICoroner 22, Humphreys J observed that the law on self-defence was uncontroversial and is set out in *R v Beckford* [1988] AC 130. He set out the two key questions as follows:

- “(i) Did the person who fired the shot that caused the death do so with the *honest belief* that he needed to use force to defend himself or others from unlawful violence?
- (ii) Was the force used *reasonable* for the purpose of defending himself or others from unlawful violence, having regard to the circumstances which he believed existed at the time?”

2.54 In addition, section 3(1) of the Criminal Law Act (Northern Ireland) 1967 was in force at the time. It provided:

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

2.55 An individual need not necessarily wait to be attacked before using force in self-defence, if the use of force in anticipation of an attack is reasonable in the circumstances. This was pithily expressed by Lord Scott in *Ashley v Chief Constable of Sussex* [2008] 1 AC 962, at para [18], when he said that “every person has the right also to protect himself by using reasonable force to repel an attack or to prevent an imminent attack”.

2.56 It is well established that the court should not consider these matters from the standpoint of a detached observer. Rather, it must attempt to put itself into the position of the person who used lethal force, both in determining whether that person had the requisite belief (that he needed to use force) and in assessing the reasonableness of the degree of force used.

2.57 As a matter of criminal law, whether the individual’s belief was reasonable is at most relevant to whether or not it was honestly and genuinely held. There is a distinction, which has been maintained by the highest courts on policy grounds, in civil law. There, the party relying on self-defence must not only hold the belief but it must be objectively reasonable. This issue was addressed in detail by the English Court of Appeal in the context of inquests in *R (Duggan) v North London Assistant Deputy Coroner* [2017] EWCA Civ 142, in particular at para [92].

2.58 That authority also makes clear that an individual may have an honest and genuine belief that he or others are at risk of unlawful violence even where it is ultimately shown that that belief was mistaken (with the same approach being applicable even where article 2 ECHR is involved, as appears from *McCann v United Kingdom* (1996) 21 EHRR 97, at para 200, and *Da Silva v United Kingdom* (2016) 63 EHRR 12, at paras 244-245). The Court of Appeal further explained that neither domestic law nor article 2 ECHR required a finding to be made in an inquest such as this as to breach of the civil law (and, therefore, whether an honest and genuine but mistaken belief justifying the use of force was reasonable): see paras [94]-[98].

2.59 That approach may now require to be revised in light of the later decision of the Supreme Court in *R (Maughan) v HM Senior Coroner for Oxfordshire* [2020] UKSC 46. That case made clear that the standard of proof for all narrative and short form inquest verdicts in England and Wales, including suicide, is the civil standard. The same approach was adopted by the Court of Appeal in this jurisdiction in *Re Stepaviciene's Application* [2020] NICA 61. However, the next of kin of the deceased in this inquest submit that the sweeping away of the use of the criminal standard of proof in favour of the civil standard, because of the general erosion of the link between inquest verdicts and criminal process, should also be matched by the application of the civil criteria to establish self-defence rather than the test in criminal law.

2.60 I do not consider that this follows as a matter of course. The *Maughan* case dealt with the issue of inconsistent standards of proof being potentially applied in the course of one set of proceedings (that being the level of proof required to establish a fact in those proceedings), which is a matter of evidence. It did not relate to the substantive legal principles to be applied in relation to whether the death was or was not lawful. It is possible that, in due course, the law may develop in the way suggested by the next of kin; but I do not consider it necessary or appropriate to adopt the position contended for on the basis of the *Maughan* case, which does not clearly overrule *Duggan* on this issue (which addressed it directly). Moreover, although the link between committal for trial and inquest proceedings has long since gone, the link between inquests and potential criminal prosecution remains to some degree through the mechanism of section 35(3) of the Justice (Northern Ireland) Act 2002, which requires a coroner, where the circumstances of any death investigated by him or her appear to them to disclose that an offence may have been committed, to send to the Director of Public Prosecutions a written report of the circumstances. Indeed, in many legacy inquests in this jurisdiction, a potential prosecution may remain a key objective of the next of kin of the deceased. In any event, the next of kin in this inquest submit that the application of either the civil or criminal test for self-defence would give rise to the same outcome.

2.61 The MoD submits, and I accept, that particular difficulties can arise where a coroner cannot determine who fired the fatal round in any particular case; for it is *that* person's state of belief which is relevant. That poses a significant issue in this

inquest since I have not heard oral testimony from any of those who discharged the relevant lethal shots (or, at least, if I have, no soldier has admitted as much and given evidence of their state of mind at the time).

2.62 In a case where it is established that a person died as a result of lethal force deployed by a state actor, it is for the state to justify the use of force and to do so to the civil standard (on the balance of probabilities). In applying that standard, the tribunal of fact must bear in mind that, the more serious the allegation or the more serious the consequences if the allegation were proven, the more critically or more anxiously it must examine the evidence before it can be satisfied that the allegation is proven on the balance of probabilities (see, for example, the opinion of Lord Carswell in *Re CD's Application* [2008] UKHL 33, at para [28]).

The 'yellow card' and rules of engagement

2.63 The yellow card was and 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. In legacy inquests in this jurisdiction, a breach of the instructions set out in the yellow card is not generally considered to be determinative of whether or not a soldier had an honest belief as to threat to life. It may, however, be a relevant consideration in assessing the reasonableness of the force deployed in response. One must bear in mind that the circumstances involve the individual in such a case being a trained soldier, rather than an untrained civilian.

2.64 As noted by Her Honour Judge Crawford (sitting as a coroner) in the *Kathleen Thompson Inquest* [2022] NICoroner 1, at para [27]:

“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.”

2.65 This approach was followed and endorsed by HHJ Irvine KC in the Bradley Inquest, at paras [371]-[373] of his ruling setting out his findings, which, as I have noted above, the Court of Appeal endorsed as a template for legacy inquests. Similarly, at para [32] of his findings in the Coagh Inquest [2024] NI Coroner 22, Humphreys J noted that the yellow card was not a statement of the law in Northern

Ireland but was a relevant matter to take into account in determining whether, on any given occasions, the actions of soldiers deploying lethal force were justified.

2.66 The yellow card at the time relevant to the present inquest, revised in November 1971 and entitled 'Instructions by the Director of Operations for Opening Fire in Northern Ireland', contained the following guidance of relevance. Para 1 indicated that the instructions contained within the card were for the guidance of commanders and troops operating collectively or individually. It noted that: "When troops are operating collectively soldiers will only open fire when ordered to do so by the Commander on the spot."

2.67 General rules were set out in paras 2-5, including the following [bold emphasis in the original in all of the below quotations]:

- "2. Never use more force than the **minimum** necessary to enable you to carry out your duties.
3. Always first try to handle the situation by other means than opening fire. If you have to fire:
 - a. Fire only aimed shots.
 - b. Do not fire more rounds than are absolutely necessary to achieve your aim."

2.68 Generally, a warning was to be given before firing. This was set out in paras 6 and 7 of the yellow card:

- "6. **A warning should be given before you open fire.** The only circumstances in which you may open fire without giving warning are described in paras 13 and 14 below.
7. A warning should be as loud as possible, preferably by loud-hailer. It must:
 - a. Given clear orders to stop attacking or to halt as appropriate.
 - b. State that fire will be opened if the orders are not obeyed."

2.69 The circumstances in which a soldier was permitted to open fire without warning were set out, as indicated above, in paras 13 and 14 of the yellow card:

“You may fire without warning

13. **Either** when hostile firing is taking place in your area, and a warning is impracticable, **or** when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself; **and then only:**
 - a. against a person using a firearm against members of the security forces or people whom it is your duty to protect

or

 - b. against a person carrying a firearm if you have reason to think he is about to use it for offensive purposes.
14. At a vehicle if the occupants open fire or throw a bomb at you or others whom it is your duty to protect, or are clearly about to do so.”

2.70 For this purpose, a “firearm” was defined as including a grenade, nail bomb or gelignite bomb. Leaving aside the issue of circumstances when firing without warning was permitted, guidance on the occasions when a soldier may fire after having given a warning was set out in paras 8-12 of the yellow card in the following terms:

“You may fire after due warning

8. **Against a person carrying what you can positively identify as a firearm**, but only if you have reason to think that he is about to use it for offensive purposes
- and**
- he refuses to halt when called upon to do so, and there is no other way of stopping him.
9. **Against a person throwing a petrol bomb** if petrol bomb attacks continue in your area against troops and civilians or against property, if his action is **likely to endanger life.**

10. **Against a person attacking** or destroying property or stealing firearms or explosives, if his action is **likely to endanger life.**
 11. Against a person who, though he is not at present attacking has:
 - a. in your sight killed or seriously injured a member of the security forces or a person whom it is your duty to protect
- and**
- b. not halted when called upon to do so and cannot be arrested by any other means.
12. If there is no other way to protect yourself or those whom it is your duty to protect from the danger of being killed or seriously injured.”

2.71 The remainder of the yellow card (paras 15-20) related to actions by guards and at road blocks or checks and do not appear to be relevant for present purposes.

2.72 In the Brigade radio log, discussed in more detail in Chapters 3 and 4, there is an entry at 23.47 on the night of 9 July 1972 from Brigade Command, after a number of serious shooting incidents that evening, clarifying that the army was “still operating under the current rules and the Yellow Orders Card”. Other relevant entries appear in the army radio logs to similar effect. It does not appear to be in dispute that the yellow card instructions were applicable at all times material to the deaths which are the subject of this inquest.

Privilege against self-incrimination

2.73 There was reliance in this inquest by a number of witnesses, both military and civilian, on their privilege against self-incrimination. I have outlined my approach to the effect of reliance on this privilege in this chapter simply as a convenient place to discuss the matter, since other issues which were the subject of legal argument are addressed above. The basis upon which civilian witnesses in particular were advised of their right to rely on the privilege is discussed in further detail in Chapter 6.

2.74 The privilege against self-incrimination is governed by rule 9 of the Coroners’ Rules. It provides specific protections for witnesses in coronial proceedings regarding self-incrimination. The rule states:

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

2.75 Witnesses can therefore refuse to answer questions which may incriminate themselves (or their spouse). However, the privilege can only be exercised in person when the witness is giving evidence and not by correspondence or affidavit (see *M4 v The Coroners’ Service of Northern Ireland* [2022] NICA 6, at para [37]). A witness cannot therefore refuse to give evidence on the basis that they assert their privilege. Rather, he or she must give evidence and assert the privilege on a question-by-question basis, allowing the coroner to assess each specific question in the context of the witness’s evidence and with the benefit of any submission the PIPs may wish to make.

2.76 The exercise of the privilege was managed in this inquest during the course of witnesses’ evidence by the provision of a warning to the witness that they did not have to answer the question, if I was satisfied that answering carried a risk that the witness might incriminate himself or herself. As noted above, both soldiers and civilians asserted the privilege. I do not consider that any witness asserted and maintained the privilege improperly. In accordance with the authorities discussed in Ruling No 5 in this inquest, I adopted the approach that once the fact of a witness being in danger of incrimination arose, the witness would be given considerable latitude in judging for himself or herself the effect of the particular question.

2.77 The question of whether any inferences can be drawn from the invocation of the privilege applies equally to all witnesses. I invited submissions from the PIPs on this issue in light of a legal text I came across during earlier argument on issues relating to the privilege which suggested that inferences could be drawn from a witness’s reliance on the privilege in the civil law context (arising, in particular, from the decision in *Rank Film Distributors v Video Information Centre* [1982] AC 380, at 423-4).

2.78 The MoD submitted that, whilst the common law privilege had been the subject of inroads through various statutory exceptions, the statutory conferral or fortification of the privilege in the coronial context had not. Its submission was that the statutory protection afforded by rule 9 (over and above any protection afforded by the common law) pointed away from a coroner being entitled or expected to draw any inference from the exercise of the privilege. The MoD identified no authority to suggest that, in inquests, adverse inferences could or should be drawn from the assertion of this privilege, albeit some authorities suggested that adverse inferences could be drawn from its exercise in civil proceedings.

2.79 The next of kin adopted a similar approach. In their submissions, they indicated that rule 9 made no provision for the drawing of adverse inferences. Their submission was that some case law appears to permit a constrained and specific form of inference in civil proceedings but only going to certain issues; and that this did not support a contention that inferences might be drawn arising out of the exercise of the privilege in coronial proceedings.

2.80 In the Clonoe Inquest [2025] NICoroner 1, Humphreys J discussed this issue briefly at paras [18]-[24] of his ruling. He accepted that, in civil and regulatory proceedings, it was recognised that the invocation of the privilege may lead to a court drawing an adverse inference against a witness or party. However, the authors of *Jervis on Coroners* (15th edn), at para 12-97, stated that, "Since it is the right of a person asked an incriminating question to decline to answer, neither the coroner nor any jury is entitled to draw any inference adverse to the witness from the exercise of the right". Humphreys J proceeded on the basis that this was a correct statement of the law. He relied also on the context of the introduction of rule 9, as part of a package of measures accompanying the removal of the non-compellability of a person suspect of involvement in a killing, observing that, "Had the legislature intended that coroners could draw such inferences in the event of a Rule 9 refusal to answer a particular question, it could have said so".

2.81 There is a further issue, which is that of fairness to a witness exercising the privilege, which was raised by both the MoD and the next of kin in their submissions. In short, no witness was advised at the time of being given a rule 9 warning that, should they exercise their privilege and decline to answer, an adverse inference may be drawn against them (or someone else) from this. Accordingly, no witness had the opportunity to weigh this risk in the balance when determining whether or not to exercise the privilege.

2.82 In light of the submissions received on this issue and the approach adopted in the Clonoe Inquest, I too proceed on the basis that the correct approach is that inferences cannot lawfully be drawn in an inquest from the exercise of the privilege. Any reconsideration of that approach, which appears to me (albeit on the basis of limited information) to have been applied consistently by coroners in this jurisdiction, would require detailed further argument and consideration by the higher courts.

2.83 I confirm that no such inference has been drawn against any witness on the basis of their reliance on this privilege; nor against others or in a more general sense.

2.84 It is, however, an obvious consequence of the exercise of the privilege that the coroner is deprived of relevant answers which may assist in the conduct of the coronial investigation. In this case, on a number of occasions, particularly in respect of civilian witnesses who exercised their privilege (and at the urging of the next of kin), I emphasised that the provision of information in answer to questioning would be of assistance to me, and indeed to the families of the deceased in their quest for

answers and information. Ultimately, however, the authorities are clear that the privilege is the witness's to exercise and they are to be given considerable leeway in terms of their own judgment whether to rely upon it or not.

2.85 Nonetheless, where the privilege has been relied upon, there are areas where a material gap in the evidence has thereby arisen. In the Clonoe Inquest, Humphreys J commented, to similar effect, on the creation of a "significant evidential gap" (see para [287]). By way of further example, in the inquest touching upon the death of *Stephen Geddis* [2022] NICoroner 2, His Honour Judge McGurgan likewise referred to being "denied a significant evidential source" (see para [421]).

2.86 In this inquest, a number of military witnesses who *may* have been able to provide direct evidence of what occurred in Corry's Yard at the relevant time relied on their privilege, denying me the benefit of evidence they may have had to give. Perhaps unusually, a large number of civilian witnesses also relied on their privilege in this inquest both as to their own potential involvement in unlawful paramilitary activities and/or, frequently, as to their potential knowledge of others' involvement. This issue is discussed in further detail in Chapter 6. The result is that I have an incomplete picture of what some witnesses may have been up to, may have seen, or may have known about paramilitary activity at or about the time of the events under investigation.

2.87 There were a number of instances where witnesses mentioned something in their interview with my investigator and later included it in the draft statement that she provided to them for signature which, later, they declined to adopt on oath. (This arose on a few occasions where a witness evinced knowledge of a gunman which may have given rise to a risk of prosecution for non-reporting on their part, on the basis set out in Ruling No 5.) I took the view that, if a witness did not wish to do so, I would not (indeed, could not) *require* them to adopt this element of their statement on oath, although some were content to do so. Where a witness declined to repeat such a matter on oath, I nonetheless consider that I am entitled to take the earlier indication or information into account since it was communicated to my investigator (and the witness was not *compelled* to provide information to her); it was recorded and returned to the witness in a draft statement; and the witness signed that statement along with a declaration of truth as to its contents.

3. BACKGROUND AND CONTEXT

The area

3.01 The relevant location for the purpose of this inquest is that of the Springhill and Westrock estates, more particularly the Westrock estate at Westrock Gardens and Westrock Drive and the 'Springhill houses' on Westrock Drive towards its western end in 1972. This area is in west Belfast, broadly bounded by Corry's Wood Yard to the north (with the Springfield Road above); Springhill Avenue to the west (with the Ballymurphy estate beyond that); and Corrigan Park GAA ground to the south (with the Whiterock Road below). The Ballymurphy estate is just to the west of Springhill and easily accessed via Westrock Drive. Both areas could be accessed from the Springfield Road down Springhill Avenue; and Springhill and Westrock, though distinct, would be considered part of the greater Ballymurphy area. The area was an interface area with the Westrock and Springhill estates being predominantly Catholic and republican and, to the north of the Springfield Road, the Springmartin estate being predominantly Protestant and loyalist.

3.02 Corry's Wood Yard is developed on land that rises above Westrock Gardens, Westrock Drive and overlooks both these areas down into Corrigan Park. Westrock Drive and Westrock Gardens had three different dwelling constructions: a three-storey block of flats on the southwestern side of the Corry's perimeter fence; houses, often referred to as the Springhill flats, Springhill houses or 'brick houses' which were made of brick and were two-storey dwellings adjoined by an alley or walkway between every second construction (Nos 45-95 odd and 62-108 even); and single-storey bungalows, known as the Westrock bungalows or 'tin' bungalows, which formed the remainder of Westrock Drive along with Westrock Gardens and Westrock Parade.

3.03 The Westrock bungalows were built as temporary housing after the Second World War. Some witnesses described them as having been built during the war by the Americans. The 'back' door was on the gable end of the bungalows, with the front door facing other bungalows. The bungalows - or certainly those with which I am most concerned - were generally arranged in rows of four, with two rows facing each other and a concrete path or walkway leading up or down to the road in the space between the rows onto which the front doors faced. There was evidence to suggest that these bungalows were demolished in the early 1980s. The construction was principally of aluminium, with some evidence to suggest that the only part of the bungalows made of brick was the coal bunker.

3.04 There was evidence that many of the Westrock bungalows did not have fences but were just open gardens, over which one could freely walk. (Mary McVeigh gave evidence that the Petticrews' bungalow was more closed in and had "a wee wooden fence" because the family grew some vegetables. In contrast, other gardens, such as Kate Campbell's, "looked like waste ground").

3.05 An important area in the context of this inquest is a larger section of roadway on Westrock Drive situated between Nos 39, 47, 52 and 60. The road widens out where laneways commenced leading to the front doors of several bungalows (rows 33-39 and 41-47 to the north and 46-52 and 54-60 to the south). This was sometimes referred to during the course of the inquest as the 'turning circle' (although the likelihood of it being used for cars to turn was limited); sometimes referred to as the 'football circle' (as children used it as a place to play); and frequently simply as 'the circle' (even though it is not, in fact, entirely circular in shape).

3.06 Another point of potential interest was the 'electricity box' outside (and to the west of) Joe Herald's bungalow at 47 Westrock Drive. Mary Moore (now Smyth) remembered this. She said she thought it was a big green box; and there were railings around it but you could climb over those to get in. She supposed you could hide behind it.

3.07 The general geography of the area, and reference to particular locations, can be much more readily understood by reference to some of the maps helpfully prepared by Mr Vannan for the purposes of the inquest, including in particular those included at Appendix D to this ruling.

3.08 For the sake of clarity, in this ruling I refer to the throughway in the Springhill flats between various blocks - and, in particular, between 74 and 96 Westrock Drive at one end and 84 and 86 Westrock Drive at the other - as the, or an, "alleyway", which I think was the phrase most consistently used by witnesses and counsel in relation to this area, albeit it was perhaps wider than an alley might sometimes be. (At least one witness, Mary Moore, suggested that it was referred to as the "playground"). To distinguish this, I refer to the smaller throughways between certain of the Springhill flats (such as between Nos 80 and 82 and 64 and 66 Westrock Drive), where the front doors of the properties were, as "passageways". Again, for clarity, I have sought to use this terminology consistently even in some circumstances where it was not used by a relevant witness but where it was in my view clear that they were referring to the alleyway or a particular passageway.

3.09 There were a number of social clubs or community centres in the area which featured in evidence. The most important of these was probably the Westrock Community Centre (where Margaret Gargan had been before she was killed). This was at the eastern end of Corry's wall, just beyond Nos 5 and 7 Westrock Gardens. Harry Gargan and Martin (Gil) McShane, amongst others, gave evidence about its location. In his evidence John O'Donoghue indicated that Jimmy Norney was the manager at the Westrock Social Club, which he believed was known as 'The Chandelier'. It was unclear whether this was the same as the Westrock Community Centre. Mr McShane also said that there was an open area beyond the Westrock Community Centre which was an old Council dump and below that the brick yard. He agreed in questioning that this area was sometimes known as "the pits", although he used the phrase "the dumps" and had heard it referred to as the "pit head".

3.10 Martin McShane also gave evidence that he worked at the Springhill Community Centre, which he identified as being at the southwest corner of Corry's wall. There were also a number of shops in the area which featured in the evidence. These included a shop generally referred to as May's shop (but, occasionally, Mary's shop), near the Springhill Community Centre, also towards the south-west corner of Corry's wall; and a 'house shop' in Kate or Kathleen Clarke's house in her bungalow at 38 Westrock Drive.

3.11 Two other locations of note and some significance in the community were the ex-servicemen's club which was just to the south of the McGuinnesses' bungalow at 46 Westrock Drive (north of the wall at the northeast corner of Corrigan Park) and appears to have been a prefabricated building or hut still being fitted out in early July 1972; and the Mother Teresa's nuns' house at 123 Springhill Avenue, which was in relatively close proximity to the Springhill Community Centre but on the other side of Springhill Avenue.

3.12 There was also mention of the 'Shamrock Club'. On the map exhibited to his statement, Gerard Kelly marked this club at a location which appears to be at 129 Springhill Avenue. In contrast, in his evidence David McCafferty described the Shamrock Club as being in one of the aluminium bungalows on Westrock Drive which had been converted into a youth club. Thomas Reid was not familiar with a club called the Shamrock Club in the area (although he had heard of one in Ardoyne). There remained a lack of clarity as to where this club was and whether it was simply another name for one of the clubs referenced by other witnesses.

3.13 A number of witnesses (including, for instance, Brian Petticrew) gave evidence about the close-knit nature of the community. Mr Petticrew's evidence was that the Westrock area was a small community of 60 to 70 houses, and everyone knew each other. Other witnesses gave evidence to similar effect.

3.14 As indicated to the PIPs, before the conclusion of the evidence-gathering part of the inquest, I conducted a site visit, along with a number of members of my legal team and my investigator. This was an unaccompanied site visit, in that no other representatives or PIPs were present (save that, by chance, Mr Harry Gargan drove past at one point). Albeit the topography has changed to some degree since the relevant period in 1972, as evident in Mr Vannan's work, a number of key features are still present. There is still a church at the site of Corpus Christi; a gaelic football pitch at Corrigan Park; and building supply premises on part of the site which was occupied by Corry's Wood Yard. Some of the basic street layout remains the same.

3.15 From the site visit, I was able to gain a helpful insight into the layout of the area and the general topography, including for instance the differences in ground elevations between the site where the wood yard had been and where Corrigan Park is. The matter which struck me most forcefully was how small and close-knit the core area seemed in fact, as compared with the impression one might gain from consideration of the maps alone.

The layout at Corry's Yard

3.16 The layout within Corry's Wood Yard was addressed in a range of evidence, primarily military evidence. It was a large site with a number of buildings. There were extensive open areas towards the northeast of the site, bounded by Britton's Lane; with most of the buildings in the western or southwestern portions of the site. The southern part of the site was bounded by the Springhill flats at the western end and the Westrock bungalows at the eastern end. dominated by the large wood shed beside the southern wall and overlooking the Westrock bungalows. The evidence which touched on the layout of the yard focused on areas used or accessed by the military. However, the site was a working timber yard and, I understand, a significant employer in the area in 1972. To the north of the site at its northeastern corner was another commercial building, the SPD (Speedy Prompt Delivery) depot, which was also accessed off the Springfield Road.

3.17 It seems that there was a permanent military OP which was a tower made of scaffolding, with the top having sandbags and makrolon on the roof. A number of persons could fit into this but the preponderance of the military evidence was that only one person did duty in the tower. This was in the top north-west corner of the site.

3.18 There does not appear to have been any other *permanent* OPs in the yard of a similar structure at the relevant time. However, wood piles would be used as ad hoc or informal OPs, with soldiers positioning themselves on top of the wood piles. The wood piles were moved daily by Corry's operations and so the OP positions on these were not fixed. There was a more substantial OP which was constructed in the apex of the main wood shed, to which I return below. There was some evidence of another OP tower, similar to that located in the northwest section of the site, having been constructed at one point at or near the southwest corner of the site. (This is where SM123 remembered the new OP being built.) However, on the evidence before me it seems that this tower was *not* in place at the relevant time in July 1972. (It might well be that it was destroyed in the attack on the yard in May 1972 which is discussed below. In his evidence, SM79 discussed this attack and said that the post at the southwest corner was not rebuilt. It was right at the bottom facing Corpus Christi Church and overlooking the recreation or youth club. SM79 said he did not think it would work there.) The posts which were in use at the time were the OP tower at the northwest corner of the site, whose location appears to have rendered it less amenable to attack by heavy machinery, and those which were established in the main wood shed.

3.19 A variety of military witnesses also described there being a gatehouse, which seems to have also been referred to as the guardroom. For instance, SM10 said there was a gatehouse which was next to the road access for the yard; and this was where the section commander for soldiers at Corry's Yard would mainly be. Other military witnesses give evidence of a similar nature.

3.20 Over the course of the inquest I heard a lot of evidence about the main wood shed in which, according to both civilian evidence and the ciphered statements, soldiers were positioned on the night of 9 July 1972 with which these proceedings are concerned.

3.21 There are a variety of descriptions of the main wood shed which have been given in evidence. This was a large open-sided shed with piles of wood stacked inside it. There were steel girders holding up the roof. The roof had wood coming down the sides to protect the wood piles from the rain. There were a number of holes in the wood. John O'Donoghue, a civilian witness who had worked in the sawmill in the wood yard described these open slots in the wood, high up, about 30 foot high above the Westrock estate, about the size of an A4 sheet of paper. He thought these could be opened, closed and moved by replacing pieces of wood. SM382 gave evidence, however, that soldiers would not use the obvious rectangular holes in the roof or wall structures as these were too visible from outside and therefore dangerous. Instead, they would create small, discreet holes for their own use, just large enough to put a pair of binoculars through. The wood piles which were used as informal OPs could be outside this wood shed but were mainly inside it, with the top of the wood piles being shielded by the portion of the shed structure which extended down from the roof.

3.22 In the wood shed, SM10 described there being two OPs at the front of it (about 10-12 feet high) and a third OP slightly higher and behind the other two. He later indicated that the higher OP was 'Echo OP'. According to SM10, one was at the "front right" of the main shed (at the south-west corner of the building) from which you could look into Corrigan Park. A range of other military witnesses addressed the highest OP in the shed, which was in the apex of the roof; and a photograph of it was available from the book containing the Corry Diary (see below). The consensus between military witnesses who referred to this OP - which seems to have been referred to by a number of military witnesses as the 'main' OP in the shed - was that it was seldom used because its location had been identified. A dummy soldier or mannequin was placed there to draw paramilitary gunfire, with soldiers instead preferring to use slightly lower OPs on top of wood piles.

Previous attacks on Corry's Yard

3.23 In its questioning of witnesses and its submissions, the MoD sought to emphasise that, in the days and weeks preceding the deaths with which this inquest is concerned, there had been attacks on Corry's Wood Yard. In doing so, it relied principally on a 'Diary of Incidents' from March 1967 to June 1974 ('the Corry Diary') which was compiled from the personal diary of Mr T Roger Corry and published in Appendix II of a book *Seize Then the Hour: A History of James P. Corry & Co Ltd. And of the Corry Family* (Caughey), as well as a variety of radio log entries. The Corry Diary suggests that there was limited trouble at the wood yard in the years before 1972 but that, in that year and before the events of 9 July 1972, there was a significant number of incidents.

3.24 The diary suggests that, on 12 August 1969, some 40 youths set the Springfield Road premises on fire by tossing dozens of petrol bombs over the wall from the houses in the Springhill Estate; and on 21 December 1971 a car containing three youths with a bomb (packed in a plywood box) forced itself through the gates of the premises, although the car had to retreat, with the bomb still in it, when they were prevented from entering the Corry general offices.

3.25 The Corry Diary goes on to suggest that there was a stream of incidents from January to July 1972. Not all of these involved violence. For instance, the diary records that, on 31 January 1972, "All Roman Catholic workers, with three or four exceptions, left the premises as a protest against the 13 deaths in Londonderry on the previous Sunday". They remained out of work for four days.

3.26 The diary records a number of instances of Corry's lorries or vehicles being hijacked in early 1972 (although it is not always clear whether this was on the part of republican or loyalist paramilitaries, or neither) including on 10 and 31 January, 19 April

3.27 The Corry Diary notes that a bomb was thrown over the wall of Corry's Yard at Springfield Road on 1 February 1972, which blew a hole in a customer's lorry. At the same time, there were several shots fired. The following day, 2 February 1972, another bomb is noted as having been thrown over the wall. It blew out some windows in an office. Another bomb was found shortly afterwards, which was defused by the army; and two nail bombs were thrown over the wall that afternoon, one of which exploded. On 4 February, a petrol bomb is noted as having been thrown in the vicinity of the wall "and there was a constant bombardment of stones".

3.28 On 9 March 1972, according to the Corry Diary, "a large proportion of the Protestant employees left the premises and joined the Province-wide protest at lenient Government action against terrorists". From that time, until 2.00 pm, the yard was said to be under attack by gunfire, with many bullets hitting buildings. The firing is said to have been coming from the Springhill Estate. This required the management to organize the remaining workers in circumstances which provided protection. Some days later, on 14 March 1972, there was some trouble between workers of different religions and the army was called in to keep both sides apart.

3.29 Petrol bombs were noted to have been thrown over the wall at Springfield Road on 16 March 1972, which resulted in fires starting. An unexploded gelignite bomb was found on top of one of the piles. The following day (St Patrick's Day), an army patrol was subjected to a gunfire attack from Springhill Estate.

3.30 Explosive devices or petrol bombs were also said to have been thrown at the premises on 1, 15 and 23 April 1972; and 2, 3 and 5 May 1972. Further incidents where shots were said to have been fired at the wood yard from surrounding areas were on 17, 19, 20, 23, 27 and 29 April; and 2, 3, 4 and 5 May 1972.

3.31 On 11 April, the army and RUC arrived at the site to discuss security. As they were stranding on the wall with Mr Roger Corry, a barrage of stones and milk bottles was started by children. The Corry Diary says that, on 15 April 1972, "after the shooting of a top IRA man in the centre of the City, dozens of petrol bombs were thrown into the Springfield Road premises". On this occasion, Mr Corry says that the bombs could not be dealt with efficiently owing to a barrage of stones and bricks, although there was no serious fire.

3.32 There is a significant entry in the Corry Diary in relation to 17 April 1972. It says that it was explained by the army that proper protection for the Springfield Road premises could not be given without erection of observation posts inside the yard. "Permission was given for this, reluctantly by the Directors, as it was thought it would attract increased attacks." As the observation posts were being built there was a barrage of stones from children; and when the soldiers started to throw the stones back, "the situation got completely out of hand". A further army patrol arrived and dispersed the crowd with rubber bullets.

3.33 Difficulties continued as the observation posts were built. The diary says that four shots were fired at army engineers in the wood yard on 19 April; and there was a continuous stoning of the premises. The next day, an army engineer was shot in the foot by a sniper whilst on top of the partially built observation platform. The diary says that this shot "came from one of the surrounding houses"; that it was a .22 high velocity bullet; and that it passed through the soldier's foot. Several days later, on 23 April, the diary says that the army observation post had been stoned all morning. At 1.00 pm two gelignite bombs were thrown into the wood yard. One exploded and smashed windows. The army arrived "and shooting commenced".

3.34 The incidents in the diary continue, recording that, at 7.00 pm on 27 April, bursts of machine-gun fire and several rifle shots were directed at the Corry premises. The roof of the new sawmill was extensively damaged. On 29 April, several shots were directed at the army post in the Corry car park and were absorbed by the sandbags. The next day, four petrol bombs were thrown at the new sawmill, although there was no damage.

3.35 The fact of prior attacks on Corry's Yard was something which was emphasized in the witness evidence of several military witnesses. For instance, SM100 gave evidence that the yard was under attack most days he was there, with the attacks varying in intensity. Sometimes it was just a few rounds but sometimes a lot worse than that. Quite a number of military witnesses said that they had been shot at in Corry's Yard during the course of the tour. SM10 said the yard was regularly attacked from Corrigan Park and the Westrock houses. He commented on occasions when nail or blast bombs had been thrown over the wall. In oral evidence, he said they were shot at in Corry's all the time. SM344, an RMP officer, said that he recalled from his experiences in Belfast that the area containing Corry's Wood Yard attracted a lot of terrorist activity or shootings and was a dangerous place to be in or

near. SM279 gave similar evidence, indicating that he knew the Westrock and Springhill areas and that they were notorious for being dangerous. These are examples only. This was a consistent motif emerging from many former soldiers' evidence.

3.36 There was also evidence from a number of soldiers that some Corry's workers would have placed indicators for paramilitaries to show the location of OPs on the wood piles so that they could shoot at soldiers from the estate. These would be on the end of a piece of wood leaning up against the post so that IRA snipers could zero in on the soldiers' position.

3.37 Several civilian witnesses also confirmed that there was sometimes trouble in the area. By way of example, when Gerard McClory (the Order of Malta ambulance driver) was asked whether Springhill and Westrock was a flashpoint area, he said this was "extremely" so. That was one of the reasons why the Order had a mobile first aid post there.

3.38 Margaret Simpson (née Donnelly) gave evidence that, in the Westrock Estate in 1972, "the trouble could be bad", although saying that this was "with a lot of shooting coming from Corry's yard". Thomas Reid accepted that there were shootings in Westrock and that he had heard of and seen petrol bombs being thrown over at Corry's. He also remembered the attack in May, discussed below, where a mechanical excavator had been used to try to pull the wall down. He did not see that happening but had seen the damage. To like effect, Richard Clarke said that there were petrol bombs thrown at Corry's Yard on a weekly basis and he had many vivid memories about attacks on the yard.

3.39 Gerard Kelly gave evidence that there had been regular shootings in the area for several years since 1969. He described the area as "the epicentre" of the Troubles, commenting that there was regular trouble between the army and the community as the army was not welcome in the area. This ranged from kids throwing stones at army patrols on the street to the IRA shooting at them and occasionally killing one of them. He said that Corry's Yard was a regular target for the kids in the area as "the Brits" would be in it on a regular basis. He could recall numerous incidents over the years involving Corry's Yard. Although he referred to this as mostly stone-throwing, he recalled incidents such as children trying to knock walls down. He also described a previous shooting incident at the yard with a Scots regiment when kids from the area were rioting, "throwing everything they could get their hands on" at the army in the yard, when the army fired rubber bullets at the crowd and later some live rounds. Robert Russell's evidence was that prior to 9 July 1972 there would have been trouble in the area from both sides of the community.

3.40 Again, these references are examples only. Some civilian witnesses were less ready to accept that there were attacks on the army at the Corry's premises, or did not remember this. Some civilian witnesses also indicated that they were not aware of the army's presence in Corry's Yard, which I discuss further below. Generally,

however, I am wholly satisfied that there were those in the local community who were aware of the army presence in Corry's Yard and that it had previously been the target of violent attack for that reason, perhaps amongst others.

The attack on Corry's Yard from 2-5 May 1972

3.41 The Corry Diary has a number of relatively lengthy entries relating to a range of incidents which occurred at Corry's Yard from 2 to 5 May 1972. This involved the use of a mechanical excavator to try to damage or dismantle one of the observation posts which had been erected the previous month. This is also dealt with in the 1 King's Tour Diary which was available to the inquest; in army radio logs; and was addressed in the evidence of a number of the military witnesses.

3.42 The Corry Diary reports that on 2 May "terrorists brought a mechanical excavator to the outside of the Corry wall and attempted to drag the Army post over the wall into the Springhill Estate." When this failed, the driver began to destroy the wall by dragging it down with his bucket. The diary records that there were three soldiers present at this point but that their orders did not allow them to retaliate against anyone outside the wall. Company officers arrived and four shots hit the wall above their heads. Army reinforcements then arrived and were pelted with bricks and bottles. Mr Corry "suggested that the Army should shoot the driver of the excavator" who was continuing to try to destroy the wall, or that they should at least immobilize the vehicle. The army officer in charge is said to have explained that his men had orders, since Direct Rule had been introduced, to shoot only at gunmen and, even then, only when a gun had been pointed at them.

3.43 The diary notes that the attack on the yard started at lunchtime and, by 4.00 pm, stone and bottle-throwing was continuing, at which point the army withdrew into the Corry sheds. At 4.30 pm dozens of petrol bombs were hurled against the Corry wall by rioters. Corry staff and management fought the fires and put them out. Meanwhile, the army fired a few rubber bullets into the crowd. Gunfire was then directed at the army and one of Corry's young employees was hit in the shoulder. Mr R T Corry is said to have "stood on the wall facing the rioters" and to have told them that, if the army would not shoot, he would. Some of the rioters retreated but the stone-throwing continued; and Mr Corry was hit on the forehead by a brick. In the evening of 2 May, three gelignite bombs were thrown through the breach in the wall and one blew a hole in the machined timber shed. Sporadic shooting, petrol-bombing and stone-throwing continued until 9.00 pm. Then, at 9.30 pm, "a massive attack by petrol bombers stationed on the roofs of houses in Springhill and Westrock, and on the roof of Westrock Community Centre was started". The army still took no action. The diary then records that, eventually, repeated requests by Corry directors to the army succeeded and patrols were sent into the Springhill Estate under the control of a Major Mayes. By 11.00 pm, the battle was over.

3.44 The 1 Kings radio logs for that day indicate that SM181 was shot in the leg on Westrock Drive by a sniper at 18.05 hours; there was sniper fire from Corpus Christi Church at 21.15; there were petrol and blast bombs thrown at Corry's that evening; and a low velocity shot at a patrol at a broken fence at Corry's.

3.45 The Tour Diary signed by SM231 reports that 3 May began with a new observation post works at the south-west corner of Corry's and 25m of the wall which was demolished as a result of the previous day's hooliganism. It then records what is referred to as Corry's battle, including the hijacking of a bus which was brought into the area of conflict around Corry's. This was moved to the wall of Corry's to be used as a platform for "aggro". A variety of blast bombs and nail bombs are recorded as having being thrown, with a number of shots at the observation post. A sentry returned fire with one possible hit. There were more shots fired at the OP later, which were not returned. One soldier sustained a gunshot wound on his shoulder. In the evening sniper fire was intense C Company went into the yard. (This may explain the fact that a number of soldiers described events which they had experienced in Corry's Yard but which they were unsure related to 9 July 1972.) Later there were high velocity shots fired at the north observation post; and high velocity shots recorded from the Corpus Christi Church area, with gunmen also recorded as having been seen at Corrigan Park and around the area of the church.

3.46 These events are reflected in the radio logs for 3 May which also record sniper shooting into Corry's; many petrol, blast and nail bombs being thrown, as well as stones, with a crowd of approximately 40 people; a gunshot casualty at Corry's (SM333); intense sniper fire from Springfield Road into Corry's; and, later, 100 youths throwing petrol bombs.

3.47 The diary and log entries for 4 and 5 May paint a similar, perhaps more serious, picture. There were a variety of sniper shots which hit a landrover, with one passing through the beret of the driver; an attempt on Mr Corry's life; and a Kingsman (Kgm Keating) shot in Springhill Avenue near Corry's Yard. Major General Forde, the Commander of Land Forces in Northern Ireland, attended. There were more petrol bombs and security men shot at.

The days before the events of 9 July 1972

3.48 There are less frequent entries in the Corry Diary from 5 May 1972 to the time of the events with which this inquest is concerned. That is likely to be due to the IRA ceasefire which is discussed further below.

3.49 However, on 14 May there is a note of a gun battle in the area in which one of the company's Protestant employees, John Pedlow, aged 17, was hit with a bullet accidentally and died shortly afterwards. The gun battle is said to have intensified, with the Corry sheds being riddled with bullets. The army observation post in the yard was said to have been hit by 60 bullets, one soldier being wounded in the arm.

The army is said to have claimed several hits. The shooting was intense and paratroops moved into the area under cover of a smokescreen. A few days later, the funeral of Mr Pedlow caused feelings to run high and there “ugly scenes” between different religious factions and two petrol bombs were thrown at the garage within the Corry wall. The army radio logs record a stick of dynamite being found in Corry’s, covered with sand, on 17 May. The next day the GOC visited the premises to see why the Directors were objecting to a second observation post being built. Apparently, after inspecting the yard, he accepted the Directors’ reasons. This, again, supports the view that, at the relevant time in July 1972, there was only one permanent OP in the yard.

3.50 In late May and early June there is mention of several petrol bombs, a gelignite blast bomb, further blast bombs and a nail bomb being thrown at the premises. This is again reflected in a number of entries in army radio logs. It is noted that, on 8 June 1972, a bomb was thrown at the south wall but “bounced back into the Springhill Estate where it exploded, smashing windows in houses”. The following day, 9 June 1972, there is a diary note of shots being fired at soldiers and Corry security men. On 25 June 1972, youths are said to have thrown stones and asbestos at the gable of the sawmill, with stone-throwing continuing the following day. On 26 June, it is noted that shots were directed at the observation post at lunchtime, as workmen were going out the gate; and that soldiers were fired on again at 5.15 pm, with a Land Rover being damaged but no injuries.

3.51 Early July was more quiet. A Corry Land Rover is said to have been commandeered by the UDA on 3 July, which was then returned two days later. On 5 July, an army vehicle parked at the Corry gate was fired on twice by a sniper and several more shots were fired at the observation post. The Corry Diary notes that this “was during a declared IRA Ceasefire which started at midnight on June 26!” On the same day, at 7.00 pm, four of the company’s Catholic employees were walking home when one of them was shot in the shoulder when passing the Taggart Memorial Hall. The shot, it was said, came from the Springmartin area. As a result of a request by Catholic employees, step ladders were erected on the inside of the Corry wall, giving them a direct route to their homes in Springhill, since they were anxious to avoid the Protestant Springmartin area. This is the last entry in the diary before the events of 9 July 1972.

3.52 The 1 Kings Tour Diary paints a similar picture. For instance, Friday 7 July is described as “a generally quiet day”; and Saturday 8 July as “another quiet day in our area”. There is a reference to several reports of shooting in Whiterock which “could be explained by [a] report that IRA are using Corrigan Park as a range”. It is clear, however, that there was little activity in these days when the army was engaging with the IRA or vice versa, at least in this area. The entry for the following day, Sunday 9 July, is ominously titled, “The Kraken Awakes!”

3.53 Some civilian evidence supported the suggestion that matters were quiet in the days preceding the events of 9 July 1972, although a lot of civilian evidence

painted a picture (which I am far from convinced was correct) of the area being quiet generally. Nonetheless, there was a period of relative quiet by reason of the ceasefire which was being maintained between the Provisional IRA and the army, with the Official IRA also on ceasefire at the time.

The end of the IRA ceasefire

3.54 The OIRA ordered a ceasefire on 29 May 1972. Several weeks later, on 22 June 1972, the PIRA announced that it would commence a ceasefire on 26 June. There was, therefore, a period of relative calm, although not complete calm, for some time. 9 July 1972 – and, indeed, that afternoon or evening – marked the end of the PIRA ceasefire. That is potentially significant since, on the MoD case, the attack on Corry's Yard which gave rise to the army returning fire at armed civilians represented a natural expression of the end of the ceasefire and the PIRA's instruction to its volunteers to resume offensive attacks against military targets.

3.55 The ceasefire was touched upon or addressed in some way in the evidence of many of the witnesses to the inquest. The general sense provided through the evidence was that the ceasefire represented a period of respite for both the military and the community but that, as it broke and hostilities resumed that afternoon, there was tension and apprehension in the air. Hostilities resumed initially in the Lenadoon area of Belfast, a few miles to the southwest. Tension had flared over housing issues in Lenadoon, particularly in Horn Drive. This gave rise to protest and, in due course, confrontation between the army and civilians. The rights and wrongs of both the housing issue and the commencement of hostilities is neither here nor there for present purposes. The army appears to have considered that the IRA whipped up violent protest with the intention of provoking a response and claiming that it (the army) had broken the truce. For its part, the IRA considered that the army had been heavy handed in its tactics against protesters and broken the ceasefire, giving it reason to resume its offensive activities.

3.56 Three potentially significant features for the purpose of this inquest are that, first, the IRA called for volunteers to go to Lenadoon, where there was rioting and shooting; second, that word about the breakdown of the ceasefire appeared to travel to the general Ballymurphy area quickly; and, third, that IRA volunteers were called upon to resume offensive action.

3.57 For instance, Harry Gargan's evidence was that "it was a strange time with the Provisional IRA and Official IRA both on ceasefire". He said that on Sunday 9 July, "the word on the street was the ceasefire was in danger of breaking, and there was trouble in Lenadoon".

3.58 As noted in Chapter 4, there was a radio message from Brigade Headquarters to 1 Kings Regiment at 17.12 on 9 July 1972 reporting an IRA broadcast whereby all IRA battalions were to report to Lenadoon Avenue. A later entry, at 18.16, reported that IRA radio had said that the army had broken the truce by firing baton rounds

and CS gas. This was followed by a message at 18.32 indicating that a large gunfight was then occurring in the Lenadoon-Suffolk area. The army – including 1 Kings Regiment with which this inquest is concerned – was therefore aware from late afternoon that the IRA had accused it of breaking the truce and trouble was beginning to result.

3.59 In light of evidence discussed in later chapters, I consider it likely that similar reports would have reached Springhill, Westrock and Ballymurphy. Robert Russell and Bobby McCrudden were monitoring radio networks in the ex-servicemen’s club and there was evidence that this location was linked to the Bullring in Ballymurphy and others. I consider it likely that IRA radio broadcasts updating others on the status of the ceasefire would have been picked up in these areas and, presumably, circulated on to others. John O’Donoghue also gave evidence that car horns had been sounding in the Ballymurphy and Whiterock areas (on his evidence, earlier than 6.30 pm when he was making his way into Springhill) to signify the breakdown of the IRA ceasefire.

3.60 Many civilian witnesses gave evidence that they had become aware of the breakdown in the ceasefire and trouble at Lenadoon, prompting several of them to return home to their own area or home. Theresa McGuinness recalled that the ceasefire had broken in Lenadoon and described that it felt very tense. She had been in Ballymurphy with friends and they had heard that there was a lot of trouble in other areas, although nothing was happening in the Westrock area. She then made her way home. Mary Doyle gave evidence (contained in her 1999 statement to KRW) that, when at her mother’s on the Ballymurphy Road on 9 July 1972, they heard that the ceasefire had broken in Lenadoon at about 7.00 pm. She said there were a lot of people out on the road when they heard that the ceasefire had broken. Catherine Donnelly’s evidence was that, even though she was at home in her house, around tea time she heard from neighbours that the ceasefire had broken down in Lenadoon and that there was trouble.

3.61 Gerard McClory, the ambulance driver, gave evidence that, at that time, there was tension in the area. He said that a lot of people were “on edge”. He was aware there had been a breakdown of the ceasefire and he anticipated trouble.

3.62 Developments that evening are addressed in the book, Deutsch & Magowan, *Northern Ireland 1968-73: A Chronology of Events (Volume 2, 1972-73)*, in the entry for 9 July 1972 as follows: “At 9 pm, an official announcement from Kevin Street headquarters of the Provisional IRA in Dublin said, ‘The truce between the IRA and British occupation forces was broken without warning by British forces at approximately 5 pm today at Lenadoon Estate, Belfast. Accordingly, all IRA units have been instructed to resume offensive action.’” The same message is recorded in Ciarán de Baróid’s book, *Ballymurphy and the Irish War* (1989, Aisling Publishers) at p 173. (A second edition of this book, published by Pluto Press, was also referred to in the course of the hearings.) A newspaper report from the following day, 10 July

1972, reported that “all terrorist gangs in Ulster were ordered by their Dublin headquarters at 9-14 p.m. to “resume hostilities”.

3.63 An entry in the 40 CDO radio log at 21.35 that night, provided by telephone, states that: “Prov IRA in Dublin have called off cease fire and told their units to take offensive action”. A press statement appeared to have announced that, “All active service units of IRA have been ordered to take the offensive from this morning”. This may be a reference to the press statement issued by the Headquarters of the PIRA in Dublin outlined in the preceding paragraph. Around the same time, at 21.37, there was an entry in the Brigade radio log that the Flax Street Company Command had had a telephone call from an IRA spokesman stating that the ceasefire had “now ended because of [the] Lenadoon business”. The company command was trying to contact CESA (the Catholic Ex-Servicemen’s Association) “to get clarification and shooting stopped”.

3.64 In his evidence Brian Petticrew said he knew there had been a breakdown in the ceasefire (although denied that this was why John Dougal had come to his home). He said he thought he had heard it on the news. In answer to further questions he indicated that he knew at the time when he was in the house, shortly before at least some of the shootings which are the subject of this inquest, that there had been an announcement that all IRA units were to resume offensive action. SM8 also gave evidence that he remembered being in Henry Taggart Hall on 9 July 1972 and seeing a television report on the BBC about the IRA ceasefire breaking in the Lenadoon area, after which (he said) trouble then rapidly spread to all other republican areas including Ballymurphy.

The trouble in Lenadoon

3.65 The trouble in Lenadoon is, of course, outside the scope of this inquest, and I received little if any direct evidence in relation to it. (Most of the relevant evidence came from army radio logs made available to the inquest which, I recognize, may provide a one-sided account but, at any rate, should record most of the significant events on the ground.) The situation in Lenadoon does, however, form a backdrop to the events in Springhill and Westrock in a number of ways. The MoD case is, essentially, that army positions in Corry’s Wood Yard were attacked in the same way as they were in Lenadoon after the ceasefire broke. The IRA position – insofar as one can glean it from the content of the Springhill Massacre booklet (discussed in detail in Chapter 5) – is that few if any IRA volunteers remained in the Springhill or Westrock area to mount such an attack, since they had answered the call to Lenadoon. The issue of whether relevant individuals may have been going to, or coming back from, Lenadoon was also raised by some of the evidence which I heard.

3.66 The radio log entry in the Brigade Log, timed at 15.22, notes that the IRA had called for a large force to be at Lenadoon at 16.00. By 16.42 there was a crowd at Lenadoon and the situation was such that there had been heavy firing of baton rounds. At 16.55 there were 300 people outside Oliver Plunkett School moving east

to Lenadoon and at 17.00 the IRA radio said that “all IRA units” were “on alert for Lenadoon”. The Battalion Log notes at 17.12 an IRA broadcast that “all Bns” (all battalions) were “to report to Lenadoon Ave”.

3.67 The Director of Operations’ Brief for this date later described that a re-housing issue had given rise to this situation. According to this brief, there were ongoing negotiations but the IRA had pre-empted events and tried by force to move Catholic families into houses vacated by Protestants. The brief continued that, at approximately 16.00 hours over 1,000 youths were mobilised to protect furniture vans which moved south down the Lenadoon Road to the interface. Under a hail of bricks (the brief contends) security forces, after suffering some 10 casualties, were forced to fire baton rounds and subsequently water cannon and CS gas. The crowd was pushed back but a group of about 200 youths broke away and besieged the Lenadoon Post. Baton rounds and CS gas were again used.

3.68 The Director of Operations’ Brief goes on to say that, at 18.10 hours, a shot rang out; and thereafter troops throughout the area were engaged by intensive fire, including some from a number of Armalites operating from numerous locations. At 18.17 hours the army’s first round was returned and “over the next three hours there was seldom a lull in the shooting during which approx 300 rounds were fired by IRA gunmen and 164 rounds returned, 3 gunmen were hit”.

3.69 Open source material relied upon by the MoD (an account from Brendan Hughes in *Voices from the Grave* (2010, Maloney), pp 100-101; and an interview by Mr Maloney with an IRA source in *A Secret History of the IRA* (2nd edn, 2007, Maloney), pp 113 and 647) suggests that Seamus Twomey, then head of the PIRA in Belfast, gave the signal for IRA members Brendan Hughes, Jim Bryson and Tommy Tolan to open fire on the army with guns at Horn Drive in Lenadoon.

3.70 A radio log entry in the 1 Kings Battalion Log refers to a report from Brigade HQ at 18.32 on 9 July 1972 to the effect that there was a large gunfight in the Lenadoon and Suffolk area. This was provided for the company’s information. An earlier entry in a different radio log (40 CDO Log) records “trouble in Lenadoon” at 17.59, noting that CS gas had been fired after running out of rubber bullets. By 18.23 it is noted that the situation in the Lenadoon area had “escalated to shooting”, with this shortly afterwards being described as a “large gunfight” with the ceasefire having broken in that area.

3.71 This picture is supported by entries in the Brigade Log which suggest significant issues with rioting and crowd control up until around 18.25 at which point an entry notes that the “firefight [had] started in earnest”. It also records that there were snipers in empty houses, at whom the army returned fire, and by 18.30 there was a “major gunbattle in progress”.

3.72 There are radio log entries which suggest that the army (or parts of it) considered that the ceasefire had broken in the Lenadoon and Suffolk area.

However, the message from the GOC was to the effect that, "As far as we are concerned the ceasefire is still on, and we are acting in a retaliatory posture, and mustn't do anything too adventurous". An entry around this time also records a communication from the Secretary of State saying that the army was "not to go on the offensive in other areas outside Lenadoon". A similar message in the Brigade Log is noted at 19.00. The Secretary of State had indicated that there was to be "no shooting other than in the Lenadoon area" and that the army was "not to go on the offensive elsewhere unless IRA breaks ceasefire proper (ie bombing)". Defensive measures could be taken but not offensive operations.

3.73 Shooting was continuing in the Lenadoon area between 19.00 and 20.00. Intelligence also suggested that, during this period, a call had gone out that all available men from an area outside Belfast where Republicans were known to live were to report to Belfast immediately. The RMP radio log has an entry at 20.20 referring to a shooting incident at Lenadoon. It suggests that, at that point, around 200 shots had been fired at security forces and 96 shots returned. At that time the Lenadoon location was said to be being engaged by gunmen using armalites. One hit had been claimed by the army about 18.35. The relevant RUC Duty Officers' Report notes that a gun battle was still in progress at the Lenadoon area at 9.00 pm.

3.74 The short Corry Diary entry in relation to the events of 9 July 1972 is in the following terms:

"After the famous Lenadoon incident, the IRA called off their 'cease-fire'. The Corry premises were closed for the July holidays, but between July 9 and July 16, the yard was subjected to the worst ever attack by gunmen. During the ten days, thousands of shots were fired into the premises which were being guarded by the Army. Asbestos roofs on sheds were shot to pieces. A blast bomb blew a large hole in the roof of the Sawmill and sprinkler pipes were riddled with bullet holes. Shooting was so intense that repairs could not be carried out.

In a thirty minute gun-battle on July 9 five people were shot by the Army in the Westrock Estate. Three were known IRA terrorists, but, unfortunately a priest and a fourteen-year-old girl died with them."

3.75 The reference to three of the deceased being "known IRA terrorists" may well have come from press reports at the time, some of which are discussed below.

The shooting of 1 Kings soldiers shortly before

3.76 In addition to the violent confrontations in Lenadoon, a further significant development demonstrating the fact that the ceasefire was over – much closer both

to Springhill and those who may have been involved – was the shooting of two soldiers from 1 Kings Regiment in the early evening of 9 July 1972.

3.77 The RUC Duty Officers' Report for the relevant period notes that, at 7.30 pm, three Armalite shots were fired at troops in Mayo Street from Elswick Street. L/Cpl SM9 of C Company, 1 Kings was shot in the abdomen and seriously wounded. In addition, the same report continues that, at 8.00 pm on the same evening, Sgt Durkin of 1 Kings was shot on the Monagh Road near Kelly's Bar. He received a serious fracture to his leg.

3.78 The RMP radio log records the attempted murder of L/Cpl SM9 as having occurred at 19.50, noting that he had a gunshot wound to his stomach and his condition was serious. It also notes the attempted murder of Sgt Durkin of B Company, 1 Kings at 20.00. He received a gunshot wound to the leg whilst operating a vehicle check-point on the Springfield Road. SM57 gave evidence about the shooting of Sgt Bertie Durkin, who was shot in the thigh. SM57 transported Durkin to base and conducted a follow-up operation to a suspected firing house on the western side of Springfield Road. SM57's evidence was that he believed that this shooting represented the end of the IRA ceasefire (although he said there may have been something going on in Lenadoon).

3.79 The news of these attacks and casualties would likely have been ringing in the ears of those soldiers from 1 Kings, particularly those from C Company whose colleague was in a life-threatening condition, who were or came to be on duty in Corry's Wood Yard that night.

Weather, visibility and sunset

3.80 I made a number of enquiries in relation to the weather conditions in the relevant area at the time and, more particularly, the time of sunset. Many witnesses gave evidence that it was a fine and bright day. However, it is important to have some idea of when darkness fell given the fact that many witnesses were unable to give an accurate time for events they witnessed but were frequently able to indicate their memory of whether it was bright, dark or something in between at the relevant time.

3.81 The Met Office advised that the National Meteorological Library and Archive Enquiry Service does not capture sunrise and sunset time values. However, it suggested use of a specific online sunrise and sunset calculator for this purpose. Entering the address of Westrock Drive, Belfast and the date of 9 July 1972 produced the following data which was shared with PIPs. Dawn was said to have occurred at 04:06:11, with sunrise at 04:59:18. The duration of daylight was said to be 16 hours, 58 minutes and 47 seconds, with culmination at 13:29:03. Sunset was at 21:58:05 and dusk at 22:50:53.

3.82 I take sunset to have occurred at 9.58 pm, therefore, with dusk following at 10.51 pm. For this purpose, “sunset” is defined by the calculator as the moment when the upper edge of the sun touches the horizon; and “dusk” is defined as the time that marks the end of civil twilight after sunset and the onset of darkness in the evening. (A *Belfast Telegraph* newspaper clipping from 10 July 1972 which was available to the inquest also indicated that “lighting up time” that day was between 10.27 pm and 4.31 am.)

3.83 Additional information was provided by the Met Office from the Black Mountain weather station, the closest to the Westrock area; from the Aldergrove weather station (approximately 11 miles north-west of Belfast), which provided more detail; and in the form of an extract from the Daily Weather Report for July 1972 which the Met Office suggested may also be of assistance.

3.84 The Black Mountain weather station reported a maximum temperature of 12.7°C and a minimum temperature of 5.9°C. The daily mean temperature was 9.3°C, with a daily rainfall total of only 0.2mm. The Aldergrove weather station recorded a maximum temperature of 14.2°C at 1.00 pm, 2.00 pm and 7.00 pm; with the temperature in the afternoon and evening fluctuating between 10.3°C to that maximum. It records only a small amount of rain (0.3mm) at 3.00 pm, with the rest of the day being entirely dry. Wind was moderate in the afternoon and evening (between 9-13 kn) and visibility was good. The weather report offered only a general overview of the weather on 9 July 1972; but it appears that a cold front had recently passed and was followed a weak ridge of high pressure.

Community knowledge of army activities in Corry’s Yard

3.85 There was conflicting evidence given by civilian witnesses as to the extent of community knowledge of the presence and activities of the army within Corry’s Wood Yard in advance of the events of the evening of 9 July 1972. I refer to some of this below.

3.86 Harry Gargan, who was 12 at the time, gave evidence that he was always aware of the army’s presence there, explaining that at times the barrels of guns could be seen pointing of the peaks of the woodshed. He acknowledged that sometimes children threw stones at the yard and that there were both minor and major things “done against” the yard. Thomas Reid, another young boy at the time, only 11 years old, said that he wasn’t aware the army were there before 9 July 1972.

3.87 Elizabeth Meenan, who was 16 at the time, gave evidence that she was not aware that the army was based in the yard in 1972. Anthony Meenan also gave evidence that he was unaware the army were based in the yard until after the events of 9 July 1972. To like effect, Rosemary Kennedy gave evidence that she did not know that army were based in the yard, although she said there were “rumours in the area”. Marie Meenan also said she did not know that army were in the yard in 1972.

3.88 Catherine Donnelly, 22 years old at the time, gave evidence that, in July 1972, she thought the army was based inside the yard but was not sure. Mary McVeigh, around the same age (21 at the time), said in her initial statement that she knew soldiers were based in Corry's Yard. In her further statement, she said she did not know this at the time, but found it out later. Catherine Donnelly's sister, Margaret, said that she was not aware in July 1972 that the army was based inside the yard. Mary Doyle (who was 19 at the time) indicated that there were a lot of army patrols in the area in 1972, so she had guessed that the army were working from the Corry's timber yard. In oral evidence, she said that it was sort of common knowledge that they were in the yard. She did not actually see the soldiers; but knew they were there. Ann Maguire (Vallely) also said that she was not sure if the army were based in Corry's Yard but there were rumours. In contrast, Marie Gavaghan said that it was "common knowledge" that the army used the yard and you would see vehicles entering it.

3.89 It is, of course, impossible to generalize about the state of community knowledge as to whether, when and where the army were stationed in Corry's Yard. Some people may have been more observant or concerned than others; and levels of knowledge or interest will have varied. Some may have had more occasion to observe the goings on at the yard, depending upon where they lived and how often they were out on the street. However, I consider it likely that many within the community would have known about the presence of the army in Corry's Yard, at least at certain times, particularly in light of the plainly visible, fixed observation tower at the north-west corner of the site; and the attacks which there had been on the site which are discussed above, especially the major events of 2-5 May. In light of this, I viewed some of the evidence about lack of community knowledge of army presence there as lacking credibility. Certainly, those in the area with an involvement in paramilitary activity would, in my view, have been interested and well-versed in the army's presence at the wood yard, including in the wood shed (as suggested by evidence about indicators being left to identify ad hoc OPs on the wood piles as targets). By way of example, Robert Russell's evidence was that he was not aware that the army was based inside the yard, although he would have seen the army patrolling the streets in the area on a daily basis. I did not believe this.

Media reporting at the time

3.90 The inquest had access to a range of press and media reports shortly after the deaths which are the subject of these proceedings. A number of such articles from the following days were sourced following searches of archives in libraries in Belfast and Dublin. A number of aspects of the media coverage have been the subject of complaint by the next of kin or the community at various points. It is convenient to mention some of the reporting now. This is by no means designed to be comprehensive.

3.91 The events with which this inquest is concerned occurred in the evening of 9 July 1972. The first reports appeared in the print media the next day, although there was much else to report (including the events in Lenadoon, the breakdown of the IRA ceasefire, the political and security fall-out from that, a car bomb which had gone off in Belfast city centre, and a variety of gun-battles which had been or were ongoing across the city). Obviously, early editions might well have been based on limited information. There is also evidence, from both civilian and military sources, that there was interest in reporting the deaths on television news. A television crew was filming in the area on the morning of 10 July 1972. An obvious point of focus was on the fact that a Roman Catholic priest and a 13-year-old girl had been killed.

3.92 The events were featured on the front page of the *Belfast Telegraph* on Monday 10 July 1972. The main story related to gun battles and shooting which had occurred that morning (i.e. on 10 July) in Westrock and Springhill and also in Ardoyne, which had been addressed in an army statement released that afternoon. The events of the previous day at Springhill were covered in an article entitled, 'Truce that ended with 6 lives'. The text of the article (insofar as material) began as follows:

"FIVE OF THE SIX victims of the new wave of violence, unleashed by the Provisional IRA in Belfast last night were named by police to-day...

Although only six people are officially reported to have been killed, the Army to-day claimed hits on 14 gunmen during the evening and three bodies were seen dragged away.

Among the named dead are a Roman Catholic priest, a young teenage boy and girl, and an elderly shopkeeper.

They were named as: Mr. Angelo Fionda (60), shopkeeper, 45 Norfolk Drive; Mr. Patrick Butler (30), 71 Westrock Drive; Margaret Gargan (13), Westrock Drive; John Joseph Dougal (16), Springhill Avenue; Father Noel Fitzpatrick (42), curate, of Corpus Christi RC Church.

The sixth victim, a 14-year-old boy from Ballymurphy Drive, has been identified by police, but his name was being withheld for the present..."

3.93 The article explains that Mr Fionda was hit while driving his car on the Falls Road. Police said the shot which hit him came from Panton Street. His death is unrelated to those in Springhill. The article continued to address a number of those who were injured, but not killed, by gunshots:

“Five civilians suffering from gunshot wounds were also named.

They are: ... Martin Dudley (18), Westrock Drive, shot in head when, according to his father, shots were fired from the area of a timber yard. He is very seriously ill.

Brian Pettigrew (17), Westrock Drive, also very seriously ill. Police said local people claimed he was shot by gunfire from the area of a woodyard at Springfield Road...”

3.94 The following was said about the circumstances of the deaths:

“There is still a considerable amount of confusion about the circumstances of at least four of the deaths...

The body of Mr. Butler was found lying in an entry at the rear of houses in Westrock Drive. Local people said he was killed by shots from the area of the woodyard, where troops in the area are based.

Residents made similar claims about the deaths of Margaret Gargan, whose body was found on the pavement at Westrock Gardens and the 14-year-old unnamed youth.

“But it is still not known how they were shot,” said a police spokesman. As always, the full facts of the shootings are difficult to gather in the confusion of hundreds of rounds being fired.”

3.95 The *Belfast Telegraph* that day also carried a story indicating that the Secretary of State for Northern Ireland, William Whitelaw, had telephoned Cardinal Conway in Armagh to offer his sympathy on the death of Fr Fitzpatrick. The headline of that short article is, ‘How priest died still a mystery’. The article noted:

“He was shot through the neck while giving the last rites of the Catholic Church to a dying man at 11 pm last night.

The incident happened near a house close to the Corpus Christi Church. It is believed that Fr. Fitzpatrick was on his way to the house to help someone who had been injured...

It is understood that Fr. Fitzpatrick did not die instantly but was given the last rites by another priest from the Corpus Christi Parish before his death...

At the time local residents claimed he had been shot dead by a sniper from the Springmartin area, but there has been no evidence of this..."

3.96 Other newspapers carried similar reports on 10 July, although details of the actual circumstances of the deaths were thin. The *Irish Times'* main headline was, 'Six killed as I.R.A. call off truce', with the sub-headline, 'Fierce gunbattles as Provisionals attack troops in Belfast: Priest and girl (13) among weekend death toll of 11.' The opening paragraphs of that report were in the following terms:

"At least six civilians - a priest, four men and a 13-year-old girl - were killed in Belfast late last night and early this morning, as gun battles raged in the first few hours after the announcement from the Provisional I.R.A. that it had called off its ceasefire and truce which had given the North a measure of peace since last June 26th.

Provisional units went into action almost immediately after their command headquarters in Belfast had accused the British Army of violating the truce. There were gun battles between I.R.A. men and British troops in several parts of the city."

3.97 This article went on to refer to the death of Fr Fitzpatrick, who was reported to have "died after being shot in the neck, when he was going to the assistance of another one of the dead people."

3.98 There was a similar article in the *Irish Press* which referred to five civilians having been shot dead within hours of the truce ending. It said that "four of them, a 13-year-old girl, a man of sixty and two youths died in Ballymurphy from shots which, it was stated, had been fired into the Catholic estate from the nearby Protestant Springmartin area". The *Irish News* also reported the deaths on its front page on 10 July under the headline, 'Priest among 6 dead as truce ends'. That article said:

"Six persons, including a priest, were shot dead and 10 other civilians wounded in the Upper Springfield Road area of Belfast late last night during a four-hour gun battle between the British Army and the Provisional IRA following the end of the ceasefire. Several soldiers were also wounded.

3.99 An article appeared in the *Irish News* the following day, on 11 July 1972, entitled, 'U.D.A. blamed for some of Ballymurphy's six killings'. It said that:

"Uniformed, hooded and masked U.D.A. men operating in the Upper Springfield area at the time of the breakdown of the truce between the Provisional I.R.A and the British Army are now known to have been responsible for at least some of the six murders of Catholic civilians.

Three U.D.A. men were seen leaving a timber yard from which there had been intensive sniper fire the previous night at Upper Springfield early yesterday. Early morning workmen saw them disappear in the direction of the Protestant Springmartin estate.

One workman said last night: "They wore U.D.A. uniforms and were hooded and masked. I did not see any guns. But they weren't there for the fun of it and could have been carrying weapons in their clothing."

3.100 The article went on to set out a timetable of events which had been given by the Provisional IRA. (This is set out in full in Chapter 5: see para 5.16. The version in the Springhill Massacre booklet is in materially similar terms to that quoted in the *Irish News* article on 11 July 1972, with one or two minor amendments in the booklet version to correct the spelling of McCafferty and Margaret Gargan's age.) The *Irish News* article continued:

"A military spokesman said last night that if uniformed, masked and hooded men were seen leaving the timber yard they were certainly not Army personnel. The view from the Army observation post was limited, and it was possible for gunmen to have operated from the yard without the soldiers on duty there being aware of it in the general din.

Priests in the area, accepting that heavy gunfire had been directed into the Catholic district by Protestant extremists, at the same time pointed out that the Army had not returned fire from the Protestant side."

3.101 This is not an explanation which has been advanced by the MoD in the present proceedings and, as addressed in Chapter 12, I heard no evidence which lent any significant support to this theory.

3.102 Further articles appeared over the following days, covering some of the funerals (in particular, that of Fr Fitzpatrick) and giving some additional details.

For instance, on Tuesday 11 July the *Daily Mirror* carried an article entitled, 'Nine die as Ulster war erupts again'. It suggested that two civilians - Angelo Fionda and Patrick Butler - "were caught up in furious gun-battles which raged until the early hours". It mentioned the three young people killed in Springhill and Fr Fitzpatrick. It further indicated that last night, i.e. on 10 July, the army claimed that soldiers had shot 14 terrorists "including the three who died" (although these are not specified).

4. THE ARMY NARRATIVE AND EVIDENCE

4.01 As pithily summarized by senior counsel to the coroner, Mr O'Rourke, in his opening of the inquest, the basic narrative of the military in relation to shots fired from Corry's Wood Yard on the night of 9 July 1972 is "of the legitimate and justified use of force at a time of heightened tension and in response to specific threats". That appears from the statements taken from soldiers by the RMP in relation to the events of that evening ('the ciphered statements'). They are discussed in detail below. Whether the shooting of each of the individuals whose death is being examined in this inquest is in fact included or addressed by those statements is a matter which is very far from clear. Nonetheless, the thrust of the case made by the MoD is that at least some, if not all, of those shootings are described in the ciphered statements which explain the actions of the soldiers who discharged rounds.

4.02 This chapter examines the evidence given by military witnesses during the course of the inquest and a number of other records provided by the army or relating to relevant army activities at that the time. As with other evidence in the inquest, it is impossible to set this out, or even to summarise it, comprehensively. I have focused on setting out in some detail the content of the ciphered statements (which, on the MoD case, is the most relevant and direct, contemporaneous evidence in relation to the night in question); and on the evidence of former soldiers in respect of whom there was a specific suggestion that they were in fact on duty and/or deployed in Corry's Wood Yard that night. I have, of course, considered the totality of the military witnesses' evidence and make reference to a variety of evidence from other military witnesses in the course of discussing topics of potential significance.

The army structure, command and operating area

4.03 The relevant battalion for the purposes of this inquest appears to be 1 Kings, a battalion within the King's Regiment.

4.04 In late 1971, 1 Kings was based at Weeton Barracks, near Preston in England. It was deployed in late April 1972 for its second emergency tour in Northern Ireland as part of 'Operation Banner'. (1 Kings had previously conducted an emergency tour in Northern Ireland in 1969.) Some of the evidence (e.g. that of SM100 and SM10) is that the regiment was sent on this emergency tour from their base at Clifton Barracks, Minden, Germany; and some soldiers appear to have been stationed there beforehand. 1 Kings replaced a battalion from the King's Own Scottish Borderers (KOSB).

4.05 The tour lasted from 26 April 1972 to 23 August 1972, although a reconnaissance trip for the tour was undertaken by a 'recce' party between 28 February and 1 March 1972.

4.06 1 Kings was responsible for an area of West Belfast including Turf Lodge, Ballymurphy, Beechmount, Clonard, Upper Falls and Broadway. This tactical area of operational responsibility (TAOR) was assumed from 1 KOSB.

4.07 The 1 Kings TAOR was within a larger area, including Belfast and Lisburn, for which 39 Airborne Brigade (39 Brigade) was responsible. In turn, 39 Brigade, one of three brigades covering Northern Ireland as a whole, reported to the Army Headquarters Northern Ireland (HQNI) at Lisburn. HQNI had overall responsibility for the operation of the British Army in Northern Ireland during Operation Banner.

4.08 At the time of the relevant tour, 1 Kings was made up of five companies: Headquarters (HQ) Company; A Company; B Company; C Company; and Support Company. Each of A, B and C Companies would have been responsible for a specific area of the overall TAOR and, therefore, in turn had their own smaller TAOR. It was C Company which had responsibility for the area including Springhill, Westrock and Corry's Wood Yard on the Springfield Road in particular.

4.09 The battalion headquarters was at the RUC Station in Springfield Road, where HQ Company was based. A Company was stationed at North Howard Street Mill (and, later, Black Mountain School); B Company was stationed at Vere Foster School, which also included Henry Taggart Hall; and C Company was at the RUC Station or RUC Driving School known as 'the Oaks'. The Support Company was stationed at the Royal Victoria Hospital (RVH), in what was known as the Broadway Hospital Annex. Some soldiers referred to C Company being based at the Old Bakery, Springfield Crescent, Belfast (for instance, SM100, SM114 and SM349), which I assumed to be another name for the same premises. There has also been reference to the barracks being at the old Fire Station on the Springfield Road (SM10).

4.10 At times during the tour, 1 Kings also had units from other regiments come under its command. For instance, soldiers from A Company of 1 Duke of Wellington Regiment were, for a period, based in Henry Taggart Hall, but the MoD submissions were that they do not appear to have had an involvement in Corry's Wood Yard.

4.11 The OC of C Company was Major Mayes. His Second in Command (2IC) was Captain SM13.

4.12 Company strength would be roughly 100 men. There were roughly 30 men in a platoon, although this could reduce to around 24-25 with soldiers on rest and recuperation (R&R). The precise numbers given varied between different witnesses. The platoons in C Company of 1 Kings were numbered 7, 8 and 9. Each platoon would be broken into three sections, each commanded by a corporal and with a lance corporal. (There was some suggestion that these sections would also be numbered or referred to as 'Alpha', 'Bravo' and 'Charlie' but this did not feature heavily in the evidence.)

4.13 Again, there was a variety of different numbers given for this but, broadly, the evidence was that a section would be 7-10 men. Evidence also varied on this issue, but the general tenor of the military evidence was that sections would remain the same, rather than being transient, but that there were a variety of operational reasons why a soldier could be switched in or out of a section at any given time.

The rota system and duties

4.14 Very many military witnesses described a 'rota system' for the duties they performed, although not all of their evidence was consistent on precisely how this operated. I was satisfied, however, that the three platoons within C Company would rotate between three basic types of duty. The tenor of the evidence was that a platoon would do a particular duty on the rota for three days at a time and then move on. Those who indicated that the rota operated on a three-day pattern included SM13, SM57, SM108 and SM109. SM95 remembered the three types of duty but thought these were changed on a daily basis. Others thought the duties rotated on a 1-2 week basis (for instance, SM113 and SM123). The three basic types of duty were patrol duty; standby; and guard duty.

4.15 The guard platoon guarded the company base, manning the sangar and gates, and some other locations. Patrol platoon patrolled the streets, following a pre-arranged programme. Standby platoon could rest but had to be available to support others if called out in response to operational need. Some soldiers referred to standby duty as 'QRF' duty, referring to providing a quick reaction force if called out. I return to that below. There was some variety in evidence as to whether rest or 'fatigue' platoon were those on guard duty (and therefore mostly back at base) or those on standby duty (who were simply awaiting call-out).

4.16 By way of example, SM100's evidence (in his statement drafted by my investigator) was that the rota duties were patrol platoon; quick reaction force; and camp and guard platoon. The guard platoon was responsible for camp security, four towers and the gate; but it would also cover "outposts" such as Corry's Wood Yard and Black Mountain TV mast. The patrol platoon would all be out on mobile patrol, carrying out a patrol programme, with soldiers patrolling in four-man 'bricks'. His evidence was that the soldiers worked very long hours. He recalled that 18 hour working days were not unusual. That was echoed by some other soldiers.

4.17 Many other military witnesses recalled and confirmed the three-fold rota system. In contrast, SM16 explained that there was a rota of *patrols* for the platoons. To the best of his memory, the whole platoon would go out on duty rather than individual sections. He also said that in 1972 there was so much activity that the set hours in the rota could not be followed: how many soldiers were out, and whether they were in sections, platoons and from one or more company, would be situation-based. However, his evidence was inconsistent with others about the nature of the rota system. He said the rota of patrolling, guarding and standby/response was not right. He did not know where the term "guard duty" came from in relation to

Corry's Yard and said it was new to him. On his evidence, Corry's had no military presence and the army only attended in response to incidents when they were required to go. He denied that guard duties were a feature of this tour in Northern Ireland and said he had never heard of guard duties. He also said they were on standby 24/7 and there was no set routine. I found this evidence surprising as it was out of step with most of the other evidence I heard on this topic.

Corry's guard duty

4.18 One of the duties performed by C Company, 1 Kings was guarding Corry's Wood Yard. This seems to have been for a dual purpose. First, a permanent observation post was contained within the Corry's complex, which was used by the army to maintain observation over the Ballymurphy area. As repeatedly discussed in evidence, there was also another observation point in the main woodshed which seems to have performed a similar function over the Westrock and Springhill areas, all areas which would have been predominantly Catholic and republican in outlook. Second, irrespective of the army's use or occupation of the yard, it was a significant local employer in the area and viewed as a Protestant business next to a largely Catholic area, which might therefore have rendered it vulnerable to sectarian attack. SM207, the Regimental Intelligence Officer, gave evidence that the IRA allegedly planned to burn the premises (as ultimately occurred later in the summer of 1972).

4.19 A number of military witnesses recalled performing guard duty at Corry's Yard at one time or another. SM407 said that he thought there would be six Kingsmen in the yard on duty at any time and a corporal or lance corporal. He said the duty was two hours on and four hours off. On the two hours on you would be in an OP or on patrol in the yard. He could only remember duties in the yard at night as workers would be in the yard during the day.

4.20 As indicated above, guard duty at Corry's Yard was only one part of the guard duty which would be carried out. The majority of soldiers on guard duty would have been on duty at the company base, providing security there. There was evidence (for instance, from SM117) that those on that duty would also have others from their platoon undertaking mess duties in the cookhouse. Guard duty would also have required soldiers guarding the Black Mountain TV mast.

4.21 SM100 gave detailed evidence that the rota included being on duty at Corry's Yard. He thought he was there around once every 10 days. (It is possible that guard duty occurred every tenth day, if there were three different duties each on a three-day cycle; and, if the same section within the relevant platoon was assigned to Corry's Yard during guard duty, that a soldier would find himself there every ten days or so).

4.22 SM100 described the usual process as being that two soldiers would be in the guard room (up by the entrance to the yard), one in the tower (at the north-west corner of the site) and one patrolling the yard. He described that a soldier would be

in the tower for two hours and, if not there, he would be resting in the gatehouse or on patrol inside the yard along the perimeter wall. He said it usually took 30 minutes to patrol the wall. The corporal remained in the gatehouse all night. He said that a full section would not be sent to Corry's for guard duty, it would either be a group of six men (if there were enough) or four. SM109 said it would be eight men, which included the corporal and lance corporal.

4.23 SM10 gave a similar account. He said the section would be divided up; there would be a couple on patrol; a couple in observation posts; and a couple to check the wood stacks to make sure no one was in the yard. He thought there would possibly be half a dozen soldiers on guard duty there. His evidence, however, was that guard duty at Corry's would only occur at night. It was a working wood yard during the day and the army would not be there then, nor could they leave anything there "or it would disappear". That evidence, that guard duty at Corry's only occurred at night when workers were not present, was corroborated by others, such as SM106. I imagine, however, that the guard duty would also have been carried out at other times when the wood yard was not working, such as holidays.

4.24 SM106's recollection was that the standard routine at Corry's was four hours on duty and then rest, throughout the night, with the resting soldiers sleeping in sleeping bags on the guardroom floor. Other soldiers gave different estimations. For instance, SM113 thought that soldiers relieved each other every two hours, although he accepted he could not remember well how the process worked. SM349 also recalled doing two hours on and two hours off in Corry's. He too gave evidence about sleeping in the guardroom in sleeping quarters near the gate which he marked on a map appended to his statement as a long building beside the northern boundary of the Corry's complex. (SM407 also identified this building as the sleeping quarters, although other soldiers identified another building for this purpose.) He said there would usually be 15-16 men in that location. However, his evidence was also that soldiers could be posted there during the day to perform mobile patrols outside the yard around its perimeter and in the Westrock area.

4.25 The layout in the woodyard has already been discussed to a degree within Chapter 3. The evidence was that there was an OP, sometimes referred to as an elevated 'sangar', in the northwest corner of the site; and a much less formal OP in the main wood shed overlooking the southern wall.

4.26 SM109 recalled the OP at the northwest corner of the site being built by engineers when the army first 'took over' the yard. It was initially made of wood. SM109 said he put a soldier in the post and persons from the estate started shooting at it. By the end of the day it was "like a sieve" and could not be used. The engineers had to come back and reinforce it with metal and sandbags. He did not recall any other posts at the yard but described using the main shed at the bottom of the yard to try and observe the estate. He said he did not cover this as an OP post when his section was on duty and only went up to observe the area on a couple of occasions with a couple of lads.

4.27 SM100's evidence was that there was a gas heater in the north-west OP tower. Four persons could fit into it but (on SM100's evidence) only one person did duty in the tower. That was where the starlight scope would have been used. SM100 was not aware of other *permanent* OPs in the yard; but the wood piles would be used. Other soldiers similarly described there being OPs on top of wood, such as SM10 and SM382 who said that wood piles were climbed and used as informal OPs. The wood piles were moved daily by Corry's operations and so the OP positions on these were not fixed.

4.28 SM17 also described an observation post which was a proper structure, marked 'A' on a map appended to his statement, in the north-west corner of the site. He said it was a metal box covered in camouflage netting. It was shot at all the time and soldiers had to wear ear defenders because of the noise of bullets hitting it. He also said that only one person would carry out duty at this location. This was mainly to see into Ballymurphy, although it possibly provided a partial view of the Springhill area. He said there was also a post at the apex of the main wood shed (marked 'B' on his map) at the southern wall of Corry's. The area at the front of this was sandbagged. There was some evidence that the fixed observation post at the northwest corner was manned 24 hours per day. SM113 gave evidence to that effect. SM104 also thought so, although said he could not swear to it. In his evidence, SM109 said that the OP at the top of the yard was fired on consistently; it never stopped being fired upon.

4.29 SM108 was another witness who gave evidence about Corry's guard duty. He appeared to recall the whole platoon guarding the premises. He said that a couple of men would be stationed on the wood stacks in the shed to observe the area and the rest of the men would be patrolling around the perimeter of the yard. The rest of the platoon would be resting within the yard and manning the radios, so there would only be about 15 men moving about the yard at any one time. Then they would swap over with the other half of the platoon every 2-4 hours during the 24 hour duty.

4.30 This description of the whole platoon being deployed to guard the wood yard was not consistent with the majority of the other evidence I heard to the effect that only a much smaller number of troops would be deployed there. SM13 initially said he 'assumed' 25 men would have been in the yard at any one time; but in oral evidence said it could be a platoon, a section, or a couple of sections. SM123 also said that it would usually be a full platoon in the yard; as did SM349 in questioning from Mr Mansfield. It is not impossible that larger numbers of troops would have undertaken this duty at certain times but, generally, this appeared to me very unlikely, since guard duty at Corry's was only part of the guard responsibility which the platoon on guard duty would have to assume. Indeed, in oral evidence, SM108 indicated that it could well have been fewer men who undertook this duty.

4.31 SM114 said there would usually only be six men in the yard and this would be at night only, as there were workers in the yard during the day. He said that if

you were on guard duty at the yard, you would do a two-hour shift of patrolling the interior wall and they have two hours' rest. SM109 thought when on guard duties a soldier would complete two hours on guard and then four hours off. SM223 said a typical manning pattern was that there would be one man in the OP, two patrolling, and the remainder resting in the guard room, rotated within a section of 7-10 men.

4.32 Reference is made in one of the ciphered statements to "Observation Post Echo". A number of soldiers asked about this were not aware of, or could not recall, there being a post called that (such as SM13, SM93, SM104, SM106, SM109, SM114, SM123 and SM223). SM407 said the term came back to him when he read the ciphered statements and was a term he had been familiar with in Northern Ireland: it was the OP with the 'peep-hole' in the asbestos roof. He later said, however, that he did not know it was called that, to him it was just an OP.

4.33 I formed the view that Observation Post Echo was referring to the sandbagged OP in the main wood yard at the south of the site. There was evidence which suggested that that OP had two levels, with part of the OP towards the apex of the roof. A number of soldiers referred to a dummy or mannequin in this OP, although some others also mentioned a dummy in the OP tower.

4.34 SM113 was one of those who referred to a dummy in the OP in the main wood shed. SM13 also described this OP, set up amongst planks of wood in the main shed with sandbags around it. He said that this post was known to all the locals from the surrounding houses and would frequently be attacked. SM13 described a further "high post" set up amongst the rafters. SM349 could recall an OP with a beret hung up on a stick which was full of bullets. He said he was warned not to put his head up too high or he would be shot. SM407 recalled that the OP in the shed consisted of looking through a hole in an asbestos sheet. To gain access to this, you went up a ladder and sat on a ledge. He said the hole you looked through was a peep-hole, not big enough for a gun to fit through.

4.35 A number of soldiers made reference to the guardroom at Corry's yard. SM17 could not recall there being a guardroom at the yard, just the gate operated by civilian employees. There was evidence of JP Corry employing its own security men and SM13's evidence was that they worked 24 hours per day. SM16 denied that there was a guardroom at Corry's Wood Yard and said that was something he had never seen. Other soldiers, however, gave evidence about there being a guardroom which was used by soldiers there, up towards the gate at the Springfield Road.

4.36 SM223 described that there was a guardroom, which would be manned by an NCO or Captain, with radio facilities. He also recalled a single, elevated OP with sandbags, 10-15 feet high, accessed by a ladder, overlooking the local community centre at Springhill. He too said a dummy was sometimes placed with the OP. SM93 said the guardroom was a 'workman's lodge' which was used as a guardroom, where the sergeant or corporal would be based and which soldiers could use to rest

or make tea. He believed that, on the few days he did duty in Corry's Yard, the workers were present.

4.37 SM114 described his role as mainly delivering food to the guardroom (partly because he was a new soldier), which he said was located to the right as you drove in the gate. He marked this on a map appended to his statement. This was the medium-sized building at the north-west corner of the site (just below where Mr Vannan has marked 'possible observation post' on Figure 1a) with the storage tanks beside. This is where the preponderance of military evidence touching this issue suggested that the guardroom was located. At the same time, SM95 gave evidence that one of the woodstores was the HQ within the yard, in which there was sleeping accommodation for eight soldiers. SM109 remembered a sleeping area in the yard but not precisely where it was. He said, however, that it was near the top of the yard and on the first floor above the yard finance office and shop for the yard.

QRF duty

4.38 There was a high degree of consensus that soldiers were on standby at some times and had to be ready to be called out to incidents where required or where other soldiers needed support. Not all soldiers were familiar with the term QRF and some did not think that it was used, whereas others (for instance, SM109) said that it was "just normal language". SM57 said he did not remember anyone using that term during the tour. He thought that the whole platoon would be ready to be deployed on stand-by, with smaller sections being used for this purpose only in later deployments. SM95 also said QRF was not really a term known to him; he just did what he was told. He did, however, remember being called out as a response team in an APC. SM407 also said he was "not sure of" the term. SM114 said something similar. He was familiar with the term QRF from later service but not from this tour in Northern Ireland. He said that they were *all* on standby there all the time.

4.39 This evidence was inconsistent with that provided by a range of other military witnesses, who suggested that smaller groups or sections, were sent out in response to requests for assistance. For instance SM17 said that platoons always divided into sections. SM123 said in the course of his evidence that the QRF was always commanded by a full corporal and would involve a section. If needed, a senior NCO would go out with them; but it was usually a corporal who would be in charge. On the other hand, SM109's evidence was that the QRF was mostly taken out by an officer and sergeant, depending on what they were asked to do.

4.40 SM17 said that the QRF Platoon would have one section dressed and ready to go with the others on rest or standby to be called if required. SM100's evidence was that the QRF would have two sections dressed and ready to go to any location where they were required. SM13 gave evidence to similar effect, as did SM349. (Again, I considered that SM16's evidence was out of sync with others on this topic. He thought the whole platoon would be available to be sent out and not sections, although the company commander would decide how many troops to send

depending on the severity of the incident. He repeated that 99 times out of 100 the platoon went out as a whole and said he could not remember a section going out separately.) I found the evidence persuasive of those who specifically remembered a section (or two) being dressed and “ready to go”, with others waiting behind.

Evidence *re* relevant army training

4.41 There was a variety of evidence given in relation to training before 1 Kings’ tour in Northern Ireland. As one would expect, soldiers remembered different aspects. However, the strong thrust of the evidence was that there had been specific training geared towards deployment on IS (internal security) duties and in urban areas in Northern Ireland. This included training on the rules of engagement and the yellow card.

4.42 SM57 gave evidence in relation to pre-deployment training on riot control, day and night shooting, target recognition, first aid and intensive yellow card instruction, with emphasis on clarity around when soldiers could or could not open fire. SM17 also gave evidence in relation to training in preparation for the tour, which he said was carried out mainly at the Battalion’s barracks and Altcar Ranges. He thought it was over a couple of months on and off. He said yellow card rules training took place with all the soldiers to ensure that they understood the rules. SM13’s evidence was that there would have been some training before commencing duty in Northern Ireland but that it would not be very sophisticated. It would have included weapon training on the ranges at Altcar and, if the yellow card was in existence in 1972 (as it was), there would have been training on it.

4.43 SM349 referred to six weeks’ training at Weeton Camp including on close combat, house searches and vehicle searches. He was not sure about training on the yellow card specifically but said that they had received some briefing on when you could fire your weapon. SM108 gave evidence about training carried out in Lytham Hyde, consisting of basic patrol training, training on clearing houses, how to react to bombs and riot control. He said there was yellow card training and also blue card training. SM114 also recalled training for two weeks at Hyde & Lydd on patrol tactics and riot control. He said they also received training on the yellow card. SM109 too referred to training at Lydd & Hyde, covering patrol methods, riot methods and yellow card training.

4.44 SM10 said that the Battalion had done some training for Northern Ireland prior to this tour, particularly on search and patrol tactics in a mock-up village. SM123 said that, to prepare for Northern Ireland, there was box riot formation training in Germany, some IS training, and training on the yellow card rules which were very strict in relation to opening and returning fire.

4.45 Not every soldier remembered such training. In SM100’s statement which was drafted by my investigator, he noted that he did not recall carrying out any particular training on patrol methods for the tour. He believed that training for

duties in Northern Ireland only started after 1972 and that it was at the Hyde & Lydd training area. SM95 could recall a lot of general training but could not recall any specific training for going to Northern Ireland and was unable to recall any training regarding the yellow card rules.

4.46 In addition, SM104 indicated in his statement that the battalion had “no training” prior to going to Northern Ireland. He also could not remember having any training relating to the yellow card (and mentioned a blue card which was issued to soldiers). He could remember that you had to give a warning before taking action. His evidence on this issue (a lack of training, particularly in relation to the yellow card) was out of kilter with the vast majority of evidence I received on this issue from other witnesses. He accepted, in answer to questions from Mr Aiken, that he could have had training but forgotten it. I consider SM104 was likely to be mistaken or had forgotten the training which he received. He left the army in 1974. On the whole, although I have no reason to doubt that he was doing his best, I considered SM104 to be unreliable on some details. He came across as a witness who could remember very little and was somewhat suggestible in light of this. Likewise, SM100’s evidence in relation to training was out of step with the majority of evidence I heard on this issue.

4.47 As appears from the above, there was evidence from a number of military witnesses that they were trained on, and familiar with, the requirements of the yellow card. SM57’s evidence was to the effect that training emphasized the yellow card and yellow card training was of “paramount importance”, on which they spent a lot of time. He said soldiers were not confused about this but just anxious and asked a lot of questions. His evidence was that soldiers were absolutely clear on what the rules were but felt they could be open to interpretation and therefore asked about different scenarios. SM113 also gave evidence about receiving yellow card instructions regarding the rules of engagement. He said “they were very strict” regarding this, although he was unable to recall the specific training received.

4.48 There was evidence that all soldiers carried a yellow card with them (e.g. from SM108). Notwithstanding that SM100 could not recall training for the tour, he gave evidence that, in July 1972, he fully understood the yellow card (although he could not now remember the detail of what it said). His evidence was that the soldiers were trained on the yellow card, which set out the rules on when you were allowed to shoot.

4.49 SM16’s evidence was that he was confident that the men understood the guidance given in the yellow card. He said they had a lot of training on it (and that it was read out to them most days). Its content was very well known and it was their “bible”. However, he still gave direct orders about shooting; and he would order them not to fire unless they could positively identify a threat to life. I return to the issue of the yellow card in Chapter 12.

The ciphered statements

4.50 Much effort and attention in the course of the inquest was directed towards understanding and assessing a number of statements given by military personnel, in the course of a Royal Military Police (RMP) investigation, in the days after the events in Springhill on 9 July 1972. That is because the statements contain admissions that a number of the relevant statement-makers shot civilians (all identified as gunmen) who were either injured or killed during the course of their deployment at Corry's Wood Yard on the relevant date.

4.51 These statements are each recorded on an Army Form A6006, an RMP Statement Form (Military). In each case the case reference number is given as 08554/2. The versions I have seen are all typed and, in their heading, simply refer to the relevant soldier by a cipher (Soldier A, Soldier B, etc.). As appears further below, there is now no way of knowing for definite the identity of each of the statement-makers. Indeed, it is in my view largely impossible to discern the identity of them with any significant degree of certainty at this remove. That is wholly regrettable and, from the perspective of this inquest, was extremely unhelpful.

4.52 As a result of being unable to ascertain the identity of the makers of these statements, they were referred to during the inquest process simply as "the ciphered statements". On the MoD case, these statements are highly significant since they represent the version of events formally given at a time shortly after the events in question by those soldiers who discharged their weapons on the relevant night. On the next of kin's case, they should be given little weight both by reason of their non-attribution and of the circumstances in which they were taken or made. I address those issues in due course, principally in Chapter 7 and more broadly in Chapter 12. In the first instance, however, it is important to set out the content of the statements. It formed the basis of the case advanced by the MoD in the course of this inquest.

Content of the statements

4.53 I set out below a relatively full summary of the content of each of the ciphered statements. On occasion I make it clear that this is simply what the ciphered soldier *said* in the relevant statement. Even where this is not made expressly clear, however, the purpose of the following section of this ruling is simply to indicate what those soldiers were recorded as saying. It does not, for now, indicate an acceptance of the truth or accuracy, or otherwise, of the content of the statements.

Soldier A

4.54 Soldier A's typed statement consists of four pages but states at its conclusion that it consisted of seven pages, each signed by him. (I assume that the reference to seven pages is to the handwritten original which was later typed up.) It is stated as having been recorded and witnessed by SM344, a Sergeant in the Special

Investigations Branch (SIB) of the RMP, at 21.30 hours on 10 July 1972. The location given is simply Belfast.

4.55 Soldier A indicated that, on 9 July 1972, commencing about 20.15 hours, he was a member of a Quick Reaction Section consisting of seven men in his unit. He said that he was deployed in Corry's Wood Yard; and he was armed with an SLR, together with a magazine containing 20 rounds of 7.62 mm ammunition. It was daylight at the time and his task was to adopt a good observation position within the yard and "to return fire to any targets identified as a gunman". He describes positioning himself "at the front, but inside of the large wooden storage hut, near to the east wall of the wood yard".

4.56 The statement continues that, about 20.20 hours, Soldier A's position was engaged by a number of gunmen in scattered positions. He "observed, but could not locate" any of the gunmen responsible. The first fire consisted mainly of high velocity automatic fire. During this intensive firing, he became aware of the revving of a car engine. He looked out of his concealed position from behind a stack of logs and saw "the rear end of a yellow Triumph Ford car just disappearing to the east along Westrock Drive". Just after the car disappeared, he said he "heard the distinct noise of two blasts on a vehicle horn" and then saw about three or four gunmen run from behind 49 Westrock Drive. He said that some of them adopted covering positions in nearby shrubs and bushes, whilst one of them ran into the Westrock Drive Flats (which I take to be what, in this inquest, was referred to as the Springhill flats).

4.57 Soldier A continued that, although he did not engage any gunmen himself at this stage, he saw and heard Soldier E, who was located "in the main observation post at the southern end of the yard", return four rounds. He saw that one of these rounds connected with the gunman running into the Westrock Flats. The man appeared to have been hit in the chest, as he clutched that region of his body and fell to the ground, after which he tried to crawl into a house in Westrock Drive. Whilst he was attempting to do so, Soldier A saw one of the fallen man's companions drag him into an alleyway amongst the flats immediately south of Westrock Drive.

4.58 Soldier A continued that the main elevated observation post occupied by Soldier E again came under fire from numerous positions surrounding the Wood Yard. He thought the time, at this stage, would have been about 21.30 hours. He then saw two gunmen leave their cover in the vicinity of 41 Westrock Drive. One of these was about 18-19 years old (wearing light blue jeans and a brown jacket, with long dark hair); and Soldier A says he "clearly saw him to be in possession of a short-barrelled weapon carried in the ready position in front of him". The second gunman was dressed in all dark clothes and also had long, dark hair. He was about 18-20 years of age. Soldier A again said that he clearly saw him to be in possession of short-barrelled weapon resembling a pistol. Soldier A said that he took aim and fired three 7.62 mm rounds at the two men and saw that the rounds "had the desired effect of injuring the two gunmen". He saw them both fall to the ground. One of the

men got “dragged away into concealment” and the second man was left lying on his back. Soldier A believes that he killed this man. He says the time at this stage was about 21.30 to 21.40 hours.

4.59 Shortly after the incident described above, Soldier A said that he heard Soldier E, located in the main observation point, shouting for covering fire as he wished to change his position. In response, Soldier A fired off four rounds from his position into the northern end of Corrigan Park, about 300 yards south of his position. Shortly after this, he changed his position a further 5 to 10 yards to his right. He was still located within the open shed at the south of the Wood Yard but now had a better field of vision, which enabled him to adopt a right-handed aiming position. On reaching his new position, he immediately located a gunman on the east side of the flats complex, south of his position, to the left of Corpus Christi Church. This man was dressed in a light-coloured shirt and dark trousers or jeans. Soldier A believed he was in possession of an “LMG” (light machine gun) or something similar. He was aiming his weapon in Soldier A’s direction but, before he had a chance to fire, Soldier A fired two 7.62 mm rounds at him. Soldier A saw the man fall backwards to the ground and was of the opinion that his round had hit him in the chest. He lay still.

4.60 At this time, a second man came from between the houses and went towards the former gunman, coming from “the same alleyway in the flats complex”. This man was dressed in dark clothes and had long dark hair. He was not in possession of any weapon that Soldier A could see. This man bent down over his comrade and picked up the LMG. As he began to straighten up, his left side was exposed to Soldier A. Soldier A says that the man was clearly in possession of the weapon and, as he began to back away, Soldier A took aim and fired two rounds at him. He saw this man “fall over his fallen comrade”. The two bodies remained where they were and Soldier A believed that he killed them both.

4.61 At about 22.05 hours, Soldier A fired a further four 7.62 mm rounds as covering fire for other members of his unit changing positions. These four rounds were again directed in the general direction of the northern bank of Corrigan Park. He fired these rounds downwards from a shoulder position into the bank. He did not know whether or not he hit anyone with these shots but he did not see any result.

4.62 Soldier A said that, throughout the whole of the exchange of fire, which began to phase out about 01.00 on 10 July 1972, the firing from the gunmen was very intense and (in his opinion) consisted of varying velocities and calibres, including pistols, Thompson sub-machine guns, Bren guns, Browning .5s and a number of rifles. He estimated that there were possibly more than 20 gunmen operating during the action. The bodies he had referred to during the incident remained motionless throughout. He could not say when or by whom they were removed; and they were still in position when he left at about 23.00 hours.

4.63 Soldier A also noted that there was a lot of activity by innocent or civilian parties along Westrock Drive who were frequently moving in all directions to escape the gunfire. However, at no time was he aware of any bystander or any person other than a gunman being injured during the operation. He recalled that, at about 23.45, whilst firing north of the Wood Yard in the "SPD Factory" (Speedy Prompt Delivery depot), he had occasion to fire one round at a light located high up on the wall of the factory building. He did this as a result of coming under fire again.

4.64 Soldier A concluded his statement by saying that at no time during the action did he see a priest or any person dressed in any way resembling a priest.

Soldier B

4.65 Soldier B's typed statement consists of two pages but states at its conclusion that it consisted of four pages, each signed by him. (Again, I assume that the reference to four pages is to the handwritten original which was later typed up.) It is stated as having been recorded and witnessed by Corporal Brobson (previously referred to as SM345), a Corporal in the RMP, at 21.35 hours on 10 July 1972 at Springfield Parade, Belfast.

4.66 Soldier B began by noting that he was engaged on "IS" (internal security) duties in Northern Ireland. He said that, about 21.20 hours on 9 July 1972, he was on duty at Corry's Wood Shed. His duty was to protect the wood shed against armed attack by terrorists. At the wood shed a section had deployed in defensive positions. Soldier B said that, prior to their arrival, there had been concentrated fire against the security forces deployed inside the wood shed. His action on arrival was to deploy some of his section and then to position himself in the main wood shed (which he described), facing south towards waste ground and Corrigan Park. He positioned himself on a pile of wood about 10-15 feet from ground level. He was armed with a 7.62 SLR fitted with a magazine of 20 rounds of 7.62 mm ball ammunition. His SLR was fitted with a sniper scope.

4.67 Soldier B then said that he began to observe south, towards the Roman Catholic church which he describes as south of the Westrock Road. (I take this to be a reference to Corpus Christi, south of Westrock Drive.) At about 21.50 hours, he saw a male located in the rear garden of 32 Westrock Drive. He was sheltering behind the perimeter fence of the rear garden next to the north-eastern corner of the house, about 75 yards away from Soldier B's location. Observing through his sniper scope, Soldier B saw his head and shoulders. In both hands he held a weapon similar to an Armalite rifle. Soldier B could not describe his facial features but said he seemed to be a young male with long dark hair, dressed in a white shirt and dark jacket. The lighting conditions were good and visibility was fair. As Soldier B took aim, the gunman fired four high velocity shots at his location. They passed over Soldier B's head and he did not see the strikes. Soldier B continued aiming and fired four 7.62 mm aimed shots. As soon as he fired, he ducked down behind a pile of wood. A few seconds later he observed the gunman's location and he had

disappeared. Soldier B kept observation and the gunman did not reappear; but Soldier B could see no signs that he had hit him. No more shots were fired from that location.

4.68 Soldier B remained at his location until 00.30 hours on 10 July 1972. He heard a considerable number of shots being fired but did not return any fire. He then patrolled the outlying area of the woodyard observing for snipers. He saw no more gunmen that night, although he could hear what appeared to be shots being exchanged among the civilian gunmen in the area.

Soldier C

4.69 Soldier C's typed statement consists of two pages but states at its conclusion that it consisted of three pages, each signed by him (see comments above). It is stated as having been recorded and witnessed by Cpl Brobson, at 10.20 hours on 10 July 1972 at Springfield Parade, Belfast.

4.70 Soldier C began by indicating that he was presently employed on internal security duties in Northern Ireland. He said that at about 21.20 hours on 9 July 1972 he was a member of a six-man section tasked to take up defensive positions in Corry's Wood Shed. Prior to this, the shed had come under heavy fire by gunmen operating in the Springhill and Westrock housing estates. Soldier C said that they were called in to secure the area against attack by civilian gunmen. He took up position in a main wood shed, overlooking the two housing estates. He was located about 10 foot from ground level. He was armed with an SLR rifle fitted with a magazine of 20 rounds of 7.62 mm ammunition.

4.71 Soldier C said that, around 22.00 hours, he observed a male figure at an open window in an upstairs window of a block of flats. This was one of six blocks located along Westrock Drive. The male's location was in No 68, a block positioned on the north-eastern corner of the block of flats. (I note, however, that this house number is *not* in the block on the north-easter corner; that would be No 62.) The male's location was described as opposite the front gable wall of 60 Westrock Drive. On continuing observation, the range from this male's location to Soldier C's was about 50-75 yards. Soldier C said he saw the male, dressed in a dark suit and with short hair, move to the open window and poke a "long stick-shaped object" through it. Soldier C recognised this to be a machine gun similar to a Thompson sub-machine gun. The male fired two long bursts directed at the wood shed. Soldier C did not see where those rounds struck. Soldier C cocked his rifle and fired two 7.62 mm aimed shots. They struck the wall slightly left of the window. The gunman then disappeared from the window, with the room in darkness. He did not reappear.

4.72 Soldier C said that he continued to keep observation of the area but did not see the gunman again. He continued observation duty until he left the position in the wood shed at 00.20 hours on 10 July 1972. He then patrolled the outlying area of the wood shed until the early hours of the morning. He says that, during the night,

fire was returned at concentrated attacks on the wood shed by gunmen. He did not fire any more rounds and did not see any more gunmen.

Soldier D

4.73 Soldier D's typed statement consists of two pages but states at its conclusion that it consisted of three pages, each signed by him (see again comments above). It is stated as having been recorded and witnessed by SM344 at 16.25 hours on 10 July 1972 in Belfast.

4.74 Soldier D said that, about 21.00 hours, he commenced duty as the Sangar Sentry in the elevated sangar in the north-west corner of Corry's Wood Yard. The purpose of his duty was to observe, locate and engage any targets identified as gunmen. He was armed with an SLR with a magazine containing 20 rounds of 7.62 mm ammunition. Shortly after commencing duty, his position was engaged by gunmen located in a number of positions around the wood yard. He said that about 30 rounds were fired at the sangar which he occupied. He continued to observe the general area "until about 20.00 hours", at which time he located two gunmen about 300m from him to the south. (It seems relatively clear that this time cannot be correct if, indeed, Soldier D commenced duty around 21.00 hours, one hour *after* the time indicated as being when he located two gunmen. From the later content of the statement, it might well be that 20.00 hours has been either mentioned or typed when the correct time, assuming the truthfulness and coherence of the statement for this purpose, is 22.00 hours. That time is mentioned twice in the remainder of the statement: as the time when permission to fire was sought; and as the start of the hour-long period when fire was returned.)

4.75 Soldier D continued that these two gunmen were concealed behind the partially erected wall of a half-built building to the left of Corpus Christi Church. He could not describe the gunmen accurately but said that one of them was dressed in a blue jumper and the other was wearing a bush hat. He clearly saw one of these men to be in possession of a pistol and the other (the one with the blue jumper) was armed with a rifle. From the characteristic sounds, Soldier B recognised this to be a high velocity rifle. The two gunmen continued to engage military positions within the wood yard, including Soldier D's position.

4.76 Around 22.00 hours, Soldier D requested permission to return fire at the gunmen, which was granted by his company headquarters. During the period 22.00 to 23.00 hours, he returned four rounds at the two gunmen concealed behind the wall. He said that it was quite possible that he hit one of these men, as he saw one of them (the one dressed in the blue jumper) fall to the ground. He continued to observe the area after but did not see them again. During the time spent engaging the gunmen, he did not see anyone else in the area. However, he said that during the exchange of fire there was intense firing both from and to the wood yard. The firing from this location ceased about 00.30 to 01.00. At no time during the action did he see anyone dressed in any way resembling a priest.

Soldier E

4.77 Soldier E's typed statement consists of four pages but states at its conclusion that it consisted of six pages, each signed by him. It is stated as having been recorded and witnessed by SM346, a Corporal in the RMP, at 10.35 hours on 10 July 1972 at HMS Oak, Belfast. (It might well be that this was actually a reference to the Oaks Driving School, which was being used as a base for C Company.)

4.78 Soldier E said that he was serving on security duties in Northern Ireland, having been here since 24 April 1972. He went on to say that, about 20.00 hours on 9 July 1972, he was a member of a "seven-man fighting patrol" of his unit which formed a Quick Reaction Force. Their purpose was to reinforce, as required, any location manned by their company in the area. He said that Soldier B was their section commander. Soldier B was told by the company commander to go to Corry's Wood Yard to reinforce the existing guard, as there was a gun battle going on in that area. They went down to Corry's Wood Yard in a one-tonne Humber. On arrival at the wood yard, they were deployed by Soldier B in the wood shed facing the south wall and overlooking Westrock Drive. He was armed with an SLR, the serial number of which was provided but which has been redacted in the version of the statement which is now available, with a magazine of twenty 7.62 mm rounds. Weather conditions were clear; it was daylight; and his range of vision was about 500-600m. Their orders, given by Soldier B, "were to kill any gunmen, positively identified".

4.79 About 20.30, Soldier E was positioned in the beams of the wood shed in a position known as 'Observation Post Echo'. He said that he saw two civilian vehicles, a light blue Austin 1100 containing four men; and a yellow Triumph Herald also containing four men. The Triumph Herald came from a westerly direction down Westrock Drive and parked between 60 and 47 Westrock Drive on the left-hand side of the road. The Austin 1100 came from an easterly direction down Westrock Drive and parked in the same area on the right-hand side of the road. These cars were about 100m from Soldier E's location. He said that both vehicles gave a short blast on their horns simultaneously, the car doors flew open and the occupants deployed in different directions with each person carrying a weapon. He saw at least two rifles distinctly.

4.80 Soldier E continued that the four men from the Triumph moved very quickly to cover but the four men in the Austin seemed to think that they were out of Soldier E's field of fire. At the same time, he saw a further two men run from 50 Westrock Drive across the grass towards 56 Westrock Drive. The man leading was about 6 foot tall, of slim build with dark brushed-back hair and wearing a long, dark coat. He was carrying an SMG in the ready position. The man behind was smaller, about 5'6", wearing blue jeans and carrying a pistol in his hand. Soldier E fired four aimed shots at the group of armed men in the vicinity of the cars and smashed the windscreen of the Triumph. The man carrying the SMG fired a burst of about 30 rounds at his location. Due to the aperture he was firing through, Soldier E was

forced to fire left-handed. As soon as he fired his rounds he fell to the ground behind some sandbags; and, as he did so, the rounds from the SMG struck the asbestos just above his head.

4.81 Soldier E said that he was the only person of the patrol firing at this time; and he was informed by Soldier A of his unit, who was positioned about 10 yards east of him at a lower level on the wood pile, that one of the gunmen (located on the grass in front of 92 Westrock Drive) had dropped to the ground clutching his chest and crawled out of sight between the flats.

4.82 As gunmen were firing steadily at his location, and his position could only be used by a left-handed person, Soldier E said that he called to Soldier A, whom he knew to be left-handed, and they agreed to change positions. Soldier A provided covering fire while Soldier E descended two ladders to the ground and climbed up to Soldier A's position on another woodpile. As soon as Soldier E was in position, Soldier A handed Soldier E his starlight scope which he placed behind him. He then assisted Soldier A to the ground and, as Soldier A climbed the ladders to Observation Post Echo, he was fired upon by automatic and pistol fire. Soldier E then fired four aimed 7.62 shots into the bank of Corrigan Park between 46 and 54 Westrock Drive, as he could not tell where the fire was coming from.

4.83 Soldier E said that the gunbattle continued and that, between 21.15 and 21.45 hours, he saw several men running along the path past the new Community Centre in a westerly direction towards Corpus Christi Church. (This path, he said, is located at the foot of the Corrigan Park bank, between 46 and 54 Westrock Drive. It had a privet hedge on the side facing Soldier E but there were two gaps through which he was able to observe the men passing. The path was about 200 yards from his location.) Soldier E could not describe any of these men, apart from the fact that they were carrying what looked like rifles and boxes of ammunition. Soldier E fired three aimed 7.62 rounds at these men as they passed the gaps; but with negative results.

4.84 Shortly after that, Soldier E said, a heavy machine gun started firing from the area of Corpus Christi Church. Soldier E was unable to see this machine gun as it was out of his field of vision. He continued to observe the Westrock area and by this time it was turning dusk, about 22.00 hours.

4.85 When firing was directed at his location from the direction of 9 Westrock Gardens, he located the gunman standing outside the gate of 9 Westrock Gardens. The gunman was about to fire again when some people came from the Community Centre, by Corry's Wall, and passed in front of him. When the people had passed, the gunman returned to the aim position. Soldier E fired an aimed 7.62 round and saw his round hit the gunman in the chest and he fell to the ground, with his weapon still in his left hand. This gunman was about 5'8" tall with long, dark shoulder-length hair; and he was wearing a blue denim jacket and trousers, and was about 20 years old. He lay where he fell for about three-quarters of an hour and

some people dragged him, feet first, into 9 Westrock Drive. (I note here that, in this portion of the statement, Soldier E refers to both Westrock Drive and Westrock Gardens, whilst apparently describing the same location. It seems likely that one of these is wrong.)

4.86 Soldier E concluded by stating that as a streetlight between 41 and 32 Westrock Drive was hampering his vision with the starlight scope, he fired one aimed 7.62 round and shattered the light. He fired no further rounds that night and said they were relieved at 02.00 hours on 10 July by two sections of his platoon.

Soldier F

4.87 Soldier F's typed statement consists of two pages but states at its conclusion that it consisted of five pages, each signed by him. It is stated as having been recorded and witnessed by Cpl Brobson at 17.50 hours on 10 July 1972 in Belfast.

4.88 Soldier F said that he had been serving with his unit in Northern Ireland since April 1972. He described commencing duty as a member of the guard deployed in Corry's Wood Yard about 20.30 hours on 9 July 1972. He was armed with an SLR rifle with a magazine containing twenty 7.62mm rounds. He was positioned with Soldier A and Soldier E, at the southern end of one of the large wooden huts within the yard. He was deployed first inside this hut, concealed behind a pile of logs. His task whilst in the yard was to protect the yard and return fire at any targets identified as gunmen.

4.89 Soldier F said that, about 21.30 hours, he came under fire from a position somewhere in the Westrock Drive area. He attempted to, but could not, locate the gunman responsible. In the next few minutes he located numerous gunmen engaging positions within Corry's Wood Yard, including his own.

4.90 Sometime between 21.30 and 22.00 hours, Soldier F said that he located a gunman about 200 yards directly south of his position at the north side of the embankment to the north of Corrigan Park. He had a clear view of this person directly through the houses on each side of Westrock Drive. He could not describe the man at all but said that he could see that he was in possession of an object which Soldier F clearly identified as a rifle. The man was running very fast from Soldier F's left to right and, as he did so, Soldier F took an immediate aim at him and fired four 7.62mm rounds at him as he ran. All of his shots missed; and the man eventually disappeared amongst the houses. Although Soldier F observed several more gunmen in the Westrock Drive area, he did not return any more fire as the opportunity did not really present itself.

4.91 Firing from and to the various gunmen's positions in the area continued until about 00.30 hours on 10 July. During this exchange of fire, the shooting from the gunmen's positions was very intense. Soldier F said that at the commencement of the firing, there was quite a large crowd of civilians gathered along the Westrock

Drive; but most of these persons disappeared at the commencement of the offensive operations against the army. All of the gunmen Soldier F saw – about 10 or 12 – were armed with various types of weapons ranging from pistols to Thompson sub-machine guns.

4.92 Following Soldier F's return of fire, at a time he could not recall but thought was around 22.30 to 23.00, he saw the body of a male person (whom he could not describe) lying on his stomach at the junction of Westrock Drive and Westrock Parade. This body was eventually removed; but he could not say by whom. The second body he saw was also that of a male person who was lying on his back in the waste ground at, or garden of, 60 Westrock Drive. Soldier F could also not describe this man. This body was in his view for about 10 minutes, at which time a car halted outside 60 Westrock Drive. The driver of the car started examining the body, Soldier F said, together with a male person who came out of 58 Westrock Drive. He could not describe the men involved at all; but the two men picked up the body, which was obviously dead, and carried it into 58 Westrock Drive. The men did not reappear. Soldier F also recalled the third body of a further male person but could not recall where it lay, only that it was in the Westrock area. This body also remained unattended for quite a while before someone removed it, but Soldier F did not see this body removed.

4.93 Soldier F also stated that at no time during the exchange of fire did he see anyone dressed as a priest.

Soldier G

4.94 Soldier G's typed statement consists of three pages but states at its conclusion that it consisted of four pages, each signed by him. It is stated as having been recorded and witnessed by Cpl Brobson at 21.00 hours on 10 July 1972 at Springfield Parade, Belfast.

4.95 Soldier G also said that he was at present engaged on internal security duties in Northern Ireland and had been in that command since April 1972. He said that, at 21.00 hours on 9 July 1972, he was on duty as a sentry in Corry's Wood Yard. His observation post was located at the south wall of the wood shed near the eastern wall of the yard. The location was a platform elevated about 12-15 feet from ground level. He was sheltering behind some piled wood, observing south towards Corrigan Park. He had an excellent position for observing the park as that part of the wood shed overlooked it. Soldier G said that, prior to his arrival at the wood shed, there was a considerable amount of fire directed at it from the area around the wood shed. All types of weapons had been used against the security forces in the wood shed.

4.96 Soldier G then said that, about 22.00, he spotted a male lying behind a mound that bordered the north side of Corrigan Park. The mound was about 10 feet high and overlooked the Westrock estate. He saw puffs of smoke coming from this

male's location and muzzle flashes. It looked to Soldier G like he was firing an automatic weapon. Due to the range from this gunman to his own location, Soldier G could not describe the man.

4.97 Soldier G was dressed in normal internal security kit and was armed with an SLR fitted with a magazine of 20 rounds of 7.62 mm ball ammunition. He said that his rifle was also fitted with a sniperscope. Even observing the gunman's position through the sniperscope, Soldier G could not describe him. Soldier G cocked his SLR and fired one round. He did not observe the strike of his round as the mound was covered in long grass. However, the gunman disappeared behind the mound. Soldier G kept observation but the man did not appear again. Soldier G said that he might have hit him, although he saw no indications of this other than him disappearing.

4.98 Soldier G said that the firing in the area was sporadic. About 23.00, his location was fired upon by a gunman concealed in the Corrigan Park pavilion. The pavilion was located between the mounds on the left side of the Park, south of the Roman Catholic Church, located on waste ground south of Westrock Drive. He observed this pavilion and saw the head and shoulders of what appeared as a male person. Soldier G could not identify his facial features but he had long, dark hair and wore a greenish-type jacket. Soldier G said he could see what appeared to be an M1 carbine in his hands, pointing towards his own location, which was about 700 yards away. The gunman was positioned through an opening below the roof. Soldier G could see along the mound leading to the north wall of the pavilion. He cocked his rifle and fired four 7.62 mm aimed rounds in quick succession. He saw the youth fall backwards. His weapon fell with him. Soldier G was sure that he hit him. No more shots were fired from this gunman's location. Soldier G kept observation but did not see any movement around the pavilion.

4.99 Soldier G remained in that area of the wood shed until 23.59 hours on 9 July. He then returned to the guard room at the main entrance to the wood shed from the Springfield Road. During the course of the night he did not fire any more rounds. He said that the wood shed was continually being fired upon up to the time that their duty terminated and they returned to company lines at Springfield Parade.

Some observations on the content of the ciphered statements

4.100 I have carefully considered the content of the ciphered statements both on their own, in conjunction with each other, and in conjunction with the other evidence which has been provided in the course of this inquest. I return to them later in this ruling, as appropriate. However, having summarised their content above, it is convenient to make a number of preliminary observations about this.

Were all the ciphered soldiers in the same unit?

4.101 As discussed elsewhere, there are huge difficulties trying to identify each ciphered soldier and, indeed, even determining with confidence the platoon in which they served. However, there is material within the ciphered statements which suggests that several, if not all of them, were part of the same unit.

4.102 In the first instance, all of the soldiers indicated in some form that they were deployed in Northern Ireland since April 1972, which accords with the deployment of 1 Kings to Northern Ireland. A number of the soldiers indicated that they were deployed to Corry's Wood Yard as part of a small unit or force. For instance, Soldier A said that he was part of a 'Quick Reaction Section' of seven men from his unit. Soldier E refers to being part of a "seven-man fighting patrol" of his unit which formed a 'Quick Reaction Force.' Soldiers A and E seem extremely likely to have been part of the same unit; and the content of their statements indicates that they acted together for at least a considerable period of the events of 9 July. Soldier E's statement further indicates that Soldier B was their "Section Commander". That puts Soldiers A, B and E in the same section for these purposes. For his part, Soldier B's statement corroborated his commanding role to some degree in that it refers to him 'deploying' some of "the section".

4.103 There are seven ciphered statements and it is *possible* that they represent all seven members of the seven-man section or QRF, although I think this is unlikely to be the case. It is likely that there were other soldiers at the wood yard on regular guard duty, some of whom may also have been interviewed by the RMP. A number of the other ciphered statements referred to duty which appears to be guard duty, or more consistent with such duty than QRF duty. For instance, Soldier D mentions commencing "duty as Sangar Sentry" in the elevated sangar at the northwest corner of the yard. This is consistent with the description provided by several military witnesses of one of the roles carried out by soldiers assigned to guard duty at Corry's Yard. It might, of course, simply represent where Soldier D was deployed by Soldier B upon the arrival of the QRF section. However, I consider that to be less likely. Soldier G also describes his duty "as a sentry" in Corry's. Although he was positioned in the sheds, his description of his duty, and the fact that he records at the end of his statement that he "returned to the guard room" at the main entrance to the wood yard at 23.59, appears to me to be more consistent with having been on guard duty than having arrived as part of the QRF.

4.104 Soldier C mentioned being part of a six-man section. Although this could be a *separate* section from the seven-man section mentioned by Soldiers A and E, it could also be a reference to six men *excluding* the section commander (Soldier B). The timings mentioned in Soldier C's statement, commencing at 21.20 hours, appear to tie in with those mentioned by Soldier B in his. Soldier C also mentions being "tasked to take up defensive positions" at that time, which again correlates with what is said by Soldier B. My working assumption is that he too was in the same unit or section as Soldiers A, B, and E.

4.105 Soldier F mentions commencing duty as “a member of the guard deployed” at Corry’s Wood Yard about 20.30 hours. Although this might strongly suggest he was not a member of the QRF, the content of his statement makes clear that he was positioned with Soldiers A and E and that he was “deployed” there, which might equally suggest that he was part of their reaction force deployed by Soldier B. At the same time, it was clear from other evidence that those on guard duty at Corry’s Yard would usually include some soldiers positioned in the wood piles. The latest time mentioned in Soldier F’s statement is 00.30, at which time Soldier B indicated that he left to patrol the outlying area of the wood yard. This might, again, suggest that Soldier F was in Soldier B’s section.

4.106 As noted above, Soldier G also mentions being on duty as a “sentry” but then also goes on to describe a location within the wood shed, behind piled wood, which suggests that he too may have been in close proximity to Soldiers A and E. Soldier A referred to leaving his position at 23.00 and later being in the SPD. As also noted above, Soldier B referred to later patrolling the outlying area of the wood yard, as does Soldier C. This reinforces the assumption that A, B and C were in the same unit. Soldier E did not describe in detail moving location later in the night but indicated that he was relieved at 02.00 hours the following morning, in contrast to Soldier G who said that he left his position (to go back to the main guard room) at 23.59.

4.107 The situation is complicated because not all of the ciphered statements make expressly clear when the soldier was initially deployed or on duty. Soldier A mentioned commencing duty about 20.15 and Soldier E refers to 20.00 (with him being in position at 20.30). Soldiers B and C first refer to 21.20 hours. Soldier B simply referred to being “on duty” at Corry’s Wood Shed at that time, not that that was when he *commenced* duty (although either interpretation is possible). Soldier C’s statement is similarly inconclusive. Soldier D refers to commencing duty about 21.00 hours which *might* suggest he commenced duty later than Soldiers A and E; but is not entirely conclusive. Soldier F indicated that he commenced duty about 20.30 hours. Soldier G did not mention a time when he commenced duty. The first time mentioned in his statement is 21.00 hours. Again, this may be consistent with a changeover within the guard section (along with Soldier D) at 21.00.

4.108 On the basis of the content of the statements, it looks to me as though Soldiers A, B, C and E were likely to have been part of the same QRF section and operating in conjunction with each other. I consider it much more likely that Soldiers D and G were soldiers deployed to Corry’s Wood Yard on guard duty, whom the other section (the ‘reaction’ or ‘fighting’ force) were tasked to assist. It is not impossible that they were also part of the QRF but their statements read more naturally as if they were on guard duty (and probably, therefore, from a different platoon). The position in relation to Soldier F is quite unclear. On balance, because he described commencing duty “as a member of the guard deployed in Corry’s Wood Yard”, I tend to the view that he too was on guard duty; but this is uncertain.

4.109 Assuming that only four (or even five) of the ciphered soldiers formed part of the QRF, it would suggest that a statement is not available from *all* of the members of the QRF who were in attendance, since there were seven men in that unit (according to Soldiers A and E) and only seven ciphered statements. On the basis of the general evidence which I heard about guard duty, I would have expected there to have been (at least) four soldiers on regular guard duty. If they were reinforced by a seven-man QRF, there would have been eleven soldiers on duty at Corry's Yard at the time. It is, of course, possible that some soldiers who were there had no relevant evidence to provide and were not interviewed by the RMP (for instance, because they were resting or sleeping in the guard room); or that statements they provided to the RMP have been lost entirely; or that, given pressure of circumstances or resources, there were fewer soldiers deployed to Corry's on regular guard duty than one might normally have expected. On balance, however, I consider it likely that there were a number of additional soldiers at Corry's Yard from whom no contemporaneous statements are available. (The evidence of SM100 and SM189, for instance, if they were to be believed, suggested that they may fall into this category.)

What instructions were the ciphered soldiers given?

4.110 The statements also deal, to differing degrees, with the instructions given to the ciphered soldiers at the commencement of their duty and/or their understanding of their task. Soldier A indicated that his task was to adopt a good observation position and "to return fire at any target identified as a gunman". It therefore appears that the soldiers (or the members of Soldier A's quick reaction section at least) had been warned to expect gunmen in the area. Soldier F uses similar words: his task was to protect the yard "and to return fire at any targets identified as gunmen". Soldier D described the purpose of his duty as being to "observe, locate and engage any targets identified as gunmen". Soldier B noted that his duty was to protect the wood shed "against armed attack by terrorists". It is unclear if this was simply a general task of protecting the wood shed (in light of previous attacks of various natures upon it, discussed in Chapter 3) or, rather, a specific indication that there may be an attack on the yard on this occasion. The latter appears more likely, given both the nature of the QRF/standby function and that a number of the statements indicate that there had been civilian fire directed at the wood yard before their arrival or taking up position. Soldier E is more explicit: their orders (given by Soldier B) were to "kill any gunmen" who were positively identified. I return to that in due course.

4.111 Soldier C said that his section was tasked to take up defensive positions in the yard and later said that they were "called in to secure the area against attack by civilian gunmen". He stated that the yard had already come under heavy fire from gunmen operating in the area. (It is not made clear that this was on that same day but that is the most natural reading of the statement). That is echoed by Soldier B who states that, prior to their arrival, "there had been concentrated fire against the Security Forces deployed inside the wood shed". Potentially significantly, both Soldier B and Soldier C first mention the time of 21.20, rather than the earlier times

mentioned by some others. Soldier E referred to being tasked to reinforce the existing guard as there was a “gun battle going on” in that area. Soldier G also mentions that, prior to his arrival at the wood shed, there was “a considerable amount of fire directed at it from the area around the wood shed” with all types of weapons having been deployed. He first mentioned being on duty at 21.00 hours. He does not give a clear description of the purpose of the deployment.

4.112 It seems clear from the above that, on the basis of the version of events presented in the ciphered statements, the ciphered soldiers were expecting to identify and engage gunmen. In other words, they had the mindset that civilian gunmen were to be present and that they were to return fire against them and/or repel armed attack.

When do the ciphered soldiers say the shooting commenced?

4.113 A significant issue within the inquest proceedings is the question of when, how and from whom the shooting commenced on the evening of 9 July 1972 in the relevant location or locations. This is addressed in a number of parts of the ciphered statements. I recognise that, where a soldier describes the shooting which *he* first saw or heard, this might not necessarily be the very start of the shooting in the relevant location or for the relevant incident. However, it is nonetheless worth looking at what the ciphered statements say in this regard, particularly when (on the basis of these statements) there is evidence that a number of the soldiers (Soldiers A, B, C, E, F and G) appear to have been positioned close to each other at various points.

4.114 Soldier A said that his position was engaged by a number of gunmen, in scattered locations, about 20.20 hours. Soldier E said the cars arrived at 20.30 and then firing commenced. On the basis of the ciphered statements, he appears to be the soldier who opened fire first (and, on his account, fired on the armed men in the vicinity of the cars before shots were fired at him). Leaving aside the question of shooting before the ciphered soldiers came on duty, these two soldiers appear to place the shooting, or gun battle, at the earliest point of all of them. They are also the two soldiers who appear to have claimed the most ‘hits’, that is, gunmen killed or injured by them.

4.115 Soldiers B and C both first mentioned the time of 21.20, with the action they describe occurring at time periods *after* that (21.50 and 22.00 respectively). They both mention there having been shooting at the army positions in the wood yard *prior* to their arrival, although it also seems likely that they deployed at the same time as Soldiers A and E (particularly given the content of Soldier E’s statement about having been given orders by Soldier B and Soldier B’s indication that he deployed the men in his section). Soldier F suggests that he came under fire about 21.30, suggesting that the shooting started around then. This stands at odds with what was said by Soldiers A and E, with whom he was positioned, who put time around an hour (or more) earlier. Soldier A said that the main observation post came under

fire “again” around 21.30. Unlike Soldier E, Soldier A’s statement might be taken to suggest that there was a lull in shooting between 20.20/20.30 and 21.30.

4.116 Soldier D said his position in the northwest sangar was engaged by gunmen located in a number of positions “shortly after commencing duty” (which he commenced around 21.00 hours). Soldier G describes his first observation of, and engagement with, a gunman at about 22.00, albeit he was also positioned at the wood piles.

4.117 In summary, Soldiers A and E suggest the attack on their position from numerous gunmen (associated with, but not necessarily limited to, the arrival of the cars) commenced around 20.20/20.30. Other soldiers – including those also positioned in the wood shed – describe being engaged or seeing gunmen at later times: 21.00 for Soldier D in the northwest sangar; 21.30 for Soldier F; and closer to 21.50/22.00 for Soldiers B, C and G. Soldier E suggests there was a gun battle continuing from 21.15 onwards; and Soldier A suggests that the main OP came under fire again at 21.30 (after describing the earlier events he timed at 20.20).

Who saw and engaged with the cars?

4.118 The possible involvement of gunmen who emerged from cars which stopped on Westrock Drive near the south wall of the wood yard has been a significant feature of the evidence in this case. Only two soldiers, Soldiers A and E, mentioned these in their statements. Soldier A indicated that he saw a yellow Triumph Ford car disappearing to the east along Westrock Drive during intensive firing about 20.20 hours. During that firing (which, on his account, commenced before he saw the car) he became aware of the revving of a car engine. He then saw the rear end of the yellow car just disappearing. After that, he said he heard the “distinct noise of two blasts on a vehicle horn”. He did not purport to see anyone getting out of a car but said that, after the blasts on the horn, he saw “three or four gunmen run from behind 49 Westrock Drive”. On his account, he did not see a car at or stopping in that area; the only car he had seen had “disappeared” to the east.

4.119 Soldier E described two cars more fully. He said he saw two civilian vehicles, a light blue Austin 1100 and a yellow Triumph Herald, each containing four men. On his description they came from opposite directions (the yellow car from the west and the blue car from the east) and parked on the road near each other between 60 and 47 Westrock Drive (which would be just slightly to the west of the ‘circle’ area). He described *both* vehicles giving a blast on their horns simultaneously, followed by four armed gunmen emerging from each vehicle, to be joined by two further gunmen from 50 Westrock Drive. On Soldier E’s account, this was the catalyst for him commencing fire.

4.120 Soldier F also describes another car arriving later, out of which got a man who examined a body at 60 Westrock Drive and then assisted in taking it into 58

Westrock Drive. He does not mention either of the cars addressed in Soldier E's statement; and nor do the other ciphered soldiers.

Which soldiers claimed hits?

4.121 The ciphered soldiers also describe a number of 'hits', that is, shots which they believed hit (and either killed or injured) a gunman. On my reckoning, the statements describe seven hits about which the soldiers were confident; and two possible hits, with one more dubious than the other:

- (i) Soldier A said that he saw Soldier E hit a gunman running into the Westrock Flats in the chest, who then fell to the ground and tried to crawl into a house in Westrock Drive. The man who had been hit was then dragged into an alleyway amongst the flats. This appears to have been during the period of intensive fire shortly after 20.20, after (on Soldier A's account) gunmen ran from behind 49 Westrock Drive following the sounding of a car horn. This is corroborated (to some degree) by Soldier E himself, who said that he was told by Soldier A that one of the gunmen, located on the grass in front of 92 Westrock Drive, had dropped to the ground clutching his chest and crawled out of sight between the flats. (Interestingly, Soldier E does not himself claim to have shot at that person; nor to have claimed that 'hit'). ("**Hit 1**": around 20.20; running into Westrock Flats; shot by Soldier E.)
- (ii) Soldier A then indicated that he shot two gunmen in the vicinity of 41 Westrock Drive after the main OP came under fire again around 21.30. One gunman was 18-19 years old, wearing light blue jeans and a brown jacket, with long dark hair and carrying a short-barrelled weapon. The other was 18-20 years old, wearing all dark clothes, with long hair and armed with a weapon which looked like a pistol. One was dragged away to concealment; and the other was killed and left lying. He said the time at this stage was about 21.30 to 21.40. ("**Hit 2**" and "**Hit 3**": around 21.30 to 21.40; near 41 Westrock Drive; shot by Soldier A.)
- (iii) Shortly after 21.40, Soldier A indicated that he and Soldier E changed position. Shortly after that, Soldier A then saw a gunman at the east of the flats in a light shirt, with dark trousers or jeans, whom he believed to be carrying an LMG or something similar. He was shot in the chest, fell backwards and lay still. Another man, in dark clothes with long dark hair, who picked up the LMG was shot and fell over the other man as he was backing away. Soldier A believed he killed both. The timing is unclear but seems to be before 22.05. ("**Hit 4**" and "**Hit 5**": around 21.50; at the east of the flats complex, near the alleyway; shot by Soldier A.)
- (iv) Around 22.00, Soldier E indicated that he shot and killed a gunman at 9 Westrock Gardens, who was about 5'8" tall with long, dark shoulder-length hair, wearing a blue denim jacket and trousers, about 20 years old. This

person lay for about 45 minutes and was then dragged into the house. (“Hit 6”; around 22.00; 9 Westrock Gardens; shot by Soldier E.)

- (v) Again around 22.00, Soldier G saw a male behind a mound at the north of Corrigan Park firing an automatic weapon. He thought he might have hit this man, although saw no indications other than his disappearance. (Possible, but perhaps dubious, “Hit 7”; around 22.00; at Corrigan Park mound; shot by Soldier G.)
- (vi) Also around 22.00, Soldier D sought permission to fire at two gunmen, one in a blue jumper and one wearing a bush hat, the second with a pistol and the first with a rifle, near a half-built wall to the left of Corpus Christi Church. Soldier D returned fire between 22.00 and 23.00 hours. He said it was “quite possible” that he hit one of these men (the one in the blue jumper, whom he saw fall to the ground). (Possible “Hit 8”; between 22.00 to 23.00; to east of Corpus Christi; shot by Soldier D.)
- (vii) Finally, around 23.00, Soldier G described his position being fired upon from the Corrigan Park Pavilion. He returned fire at a man with long, dark hair and a greenish jacket. He saw the man fall backwards with his weapon; and was sure that he had hit him. (“Hit 9”; around 23.00; at Corrigan Park Pavilion; shot by Soldier G.)

4.122 The above represents an attempt to sketch out, from the content of the ciphered statements, the ‘hits’ claimed where the ciphered soldiers shot and killed or injured civilians, at least as appears from their statements. As outlined below, it seems that the RMP also sought to conduct a similar exercise, but with differing results from my own analysis. For instance, the RMP plan and key records the first shots being fired from Position A (the elevated sangar in which Soldier D said he was located) at 20.00, rather than (as he suggested) between 22.00 and 23.00 hours. It is unclear whether this (i) is a mistake in the time; (ii) represents a correction of the time set out in the statement (see para 4.74 above); or (iii) refers to another incident. (The third possibility is perhaps unlikely as there is no other record of a soldier firing from Position A.) I return to this below.

4.123 Taking the statements at face value, there are nine identified hits. Assuming the two about which there is some doubt were not, in fact, actual strikes, there are still seven hits about which the ciphered soldiers appeared sure or confident. One might assume that these would accord with the five deceased in this inquest and two additional persons known to be seriously injured (Martin Dudley and Brian Petticrew). However, seeking to correlate the hits claimed with the known deaths and injuries, and/or with the time and location of the deaths and injuries indicated by other evidence, is not, by any means, a straightforward task. In several of the instances it has simply proven impossible. As an example, although Soldier E describes firing at one of the cars and smashing the windscreen, he does not describe (nor does any other soldier) someone being shot in, or just getting out of, or even

beside, the car. Other evidence strongly suggests that that is where Martin Dudley was shot.

4.124 In any event, Soldier A claimed four hits (two instances of two hits), with three gunmen killed and one injured; Soldier D claimed one hit and one gunman possibly killed; Soldier E described two hits (in two separate instances), with two gunmen killed; and Soldier G claimed one hit and another possible hit, with two gunmen possibly killed.

Other brief observations arising in relation to the ciphered statements

4.125 *Permission to fire:* It is potentially significant that Soldier D refers to requesting permission to return fire on persons he had identified as gunmen and that this was granted by his company headquarters. He is the only soldier to mention this. This may well support the view that he was on guard duty rather than acting as part of the QRF who received their orders from Soldier B. It could, potentially, also indicate that he was the first to fire (as indicated by the RMP plan and key: see para 4.122 above and para 4.139 below.) My impression, however, is that this was quite an unusual request and likely to have arisen only because, in his sangar location, Soldier D was isolated from other soldiers and also had ready access to a radio.

4.126 *Not seeing a priest:* Soldiers A, D and F each made a point of saying that they did not see anyone dressed in any way resembling a priest. This appears to indicate that, by the time the statements were taken, there was an awareness that a priest had been shot and that this was the subject of questioning or discussion during the RMP interviews. It is also perhaps surprising that some of these soldiers (and Soldier A in particular, who describes seeing both Westrock Drive and the area to the east of the flats complex) did not see Fr Fitzpatrick at any point; nor indeed any other priest. There is evidence from civilian witnesses of Fr Faul being on Westrock Drive at some point during the incident; and other priests (Fr Donnelly and Canon Murphy) also being in attendance in the area later in the evening.

4.127 *The times provided:* There are a variety of different times provided, many of which do not appear to match up in terms of the periods of duty undertaken by groups of soldiers at the scene:

- (i) Soldier A suggested that he commenced duty at 20.15 hours and left his position at 23.00, after which he was in the SPD Factory (at least at 23.45).
- (ii) Soldier B first mentions 21.20 hours, although does not indicate when he came on duty. He remained in his location until 00.30 and then patrolled the outlying area of the wood yard.
- (iii) Soldier C also first mentions 21.20, but without mentioning when he came on duty. He left his position in the wood shed at 00.20 and then patrolled the

outlying area of the wood shed until the early hours of the morning. (There is some similarity between the statements of Soldiers B and C in this regard; and I note that they were taken by the same RMP officer: see para 4.129 below.)

- (iv) Soldier D said that he commenced duty as sangar sentry about 21.00. He does not mention when he ceased duty but appears to have still been there at 01.00.
- (v) Soldier E first refers to 20.00, although it is unclear if he was at Corry's Wood Shed at that time. His statement may suggest this was the time when the QRF was called out. He refers to being relieved at 02.00.
- (vi) Soldier F said that he commenced duty about 20.30 hours at Corry's Yard. It is unclear when he concluded duty. The latest time mentioned in his statement is 23.00.
- (vii) Soldier G, like Soldier D, mentions being on sentry duty at 21.00. He said that he returned to the guard room at 23.59.
- (viii) There is one issue which bears consideration when comparing the statements of Soldiers A and E, when they seem to describe the same event but provide very different times in relation to it. Soldiers A and E each refer to swapping position. According to Soldier E, he came down from the highest OP (Echo) onto a woodpile where Soldier A had been, 10 yards to the east (or left) of Soldier E; and Soldier A went up to the OP Echo. According to Soldier A, Soldier E left "the main OP" and he (Soldier A) changed his own position, 5-10 yards to his right, to a location with a better field of vision and right-handed aiming position. (There is a discrepancy in that Soldier E says his original position could only be used by a left-handed person and he knew Soldier A to be left-handed; whereas Soldier A describes his new position as enabling him to adopt a right-handed aiming position. Nonetheless, otherwise it seems clear that each soldier is describing the same occurrence.) Soldier E appears to place this 'swap' shortly after he had fired at the men in the vicinity of the cars, i.e. shortly after 20.30. At the very least it seems to be before 21.15, the next time mentioned in Soldier E's statement. On the other hand, Soldier A describes the 'swap' as occurring *after* the main OP came under fire again at 21.30 and, indeed, after he had himself shot two gunmen around 21.30-21.40. Shortly *after* that, he said he and Soldier E changed position. In summary, Soldier E seems to locate this occurrence towards the very start of the action at 20.30; whereas Soldier A locates it at the time of the most action at 21.30. Both are describing the same event (and shortly after Soldier E shot towards the cars) but at an entirely different time.

The overall narrative

4.128 It is difficult to piece together a clear and coherent narrative of the events of the evening from the ciphered statements. Broadly, they indicate that there had been

shooting at Corry's Yard from civilians, which resulted in the deployment of the QRF. Relatively shortly after the QRF arrived to reinforce those on guard duty, a gun battle commenced, precipitated by the deployment of civilian gunmen at or about the time when one or two cars arrived on the scene, but not limited to the occupants of those cars. There was significant firing at the army from a number of locations around the estate, as well as from Corrigan Park and beside Corpus Christi Church, from a variety of gunmen. The army returned fire; but only at identified gunmen. All those who were shot and injured were identified as gunmen before being hit.

Time and date of statements being taken

4.129 Assuming the correctness of the details recorded on the statements as to when and by whom they were taken, one can see the following:

- (a) Cpl Brobson took the statement of Soldier C at 10.20 on 10 July 1972; the statement of Soldier F at 17.50; the statement of Soldier G at 21.00; and the statement of Soldier B at 21.35 on that date;
- (b) Cpl SM346 took the statement of Soldier E at 10.35 on 10 July 1972; and
- (c) Sgt SM344 took the statement of Soldier D at 16.25 hours on 10 July 1972; and the statement of Soldier A at 21.30 on that date.

4.130 Put another way, Soldiers C and E were interviewed the next morning (by Cpl Brobson and Cpl SM346). Soldiers D and F were interviewed in the late afternoon of 10 July (by Sgt SM344 and Cpl Brobson). Then, later in the evening, Soldiers G, A and B were interviewed (by Cpl Brobson and Sgt SM344). One might surmise that Soldier G's interview was short given the timings provided in relation to Cpl Brobson. Soldier G's statement was taken by him at 21.00 and then Soldier B's statement was taken by him at 21.35. It might also be the case that the early taking of statements of Soldiers C and E supports the suggestion that they were QRF and therefore relieved of duty in the early hours of the morning of 10 July and back at base; whereas Soldiers D and F were on guard duty (since SM100's evidence suggests that they returned to base in the afternoon on 10 July). It is unclear why the remaining three soldiers were interviewed later that evening.

4.131 The circumstances under which the statements were taken is discussed in further detail in Chapter 7.

Difficulties in identifying authors

4.132 The pro forma used to produce the typed versions of the ciphered statements includes an introductory section where various personal details of the statement-maker are designed to be completed. These include the soldier's surname and forenames; number, rank and regiment; unit and location; home address; height and

build; date of birth; and place of birth. They are clearly designed to assist in identification of the soldier giving the statement. Although marital status, height and build are asterisked, signifying that they are to be completed only “where applicable”, it is also clear that it is possible to include in the introductory section an indication of a physical description of the soldier at the time.

4.133 None of these details at all are completed on the typed version of the ciphered statements which are available to this inquest. It is unclear whether they were completed on any earlier handwritten versions of the statements; but in the usual way they would have been. (SM92 and SM93 appended to their witness statements handwritten RMP statements taken from them on 9 July 1972 in relation to the shooting of SM9, which provided helpful examples within the inquest papers of how the original form would have looked when completed in manuscript. It included several of their personal details from which it would have been straightforward to identify them.) Whilst one can understand that these details would not be completed on a version of the statement where the maker has been intentionally anonymized, the fact of their absence simply underscores the unsatisfactory position in which this inquest has been placed by the absence of any identifying information (other than what can be gleaned from the substantive content of the statements themselves) as to the identity of the soldiers who gave the statements. Again, I return to this in some detail in Chapter 7.

The RMP plan and legend

4.134 In addition to the ciphered statements, there is a copy of an annotated map or plan which appears to have been produced by the RMP arising out of the ciphered statements (‘the RMP plan’). It is titled with the investigation/incident number (08554/2) and the description, ‘Shooting Incident 9-10 July 72.’ It purports to show eleven positions, marked 1-11, from which civilian gunmen fired; and eight positions, marked A-H, from which soldiers fired. As to the latter marked positions, I do not understand the letters to accord with the ciphers given to the various soldiers, i.e. Position A does not indicate the position of Soldier A, and so on. In fact, Position A is marked as the sangar at the very northwest of the Corry’s site, which is where Soldier D described having commenced his duty.

4.135 Aside from Position A, all of the remaining seven positions from which soldiers are said to have fired appear to be within the main wood shed, with six of those (Positions B, C, D, G, E and H) all being towards the front and middle of the wood shed at the southern side. The remaining position (Position F) appears to be at the eastern edge of the wood shed and set back from the front. When compared with the other markings on the plan, Position F appears to be where the RMP believed Soldier G to have been positioned.

4.136 It is unclear why this plan shows eight positions from which soldiers are said to have fired when only seven ciphered statements were taken. It may be, of course, that one soldier (or more) fired from different locations. Soldier A refers to himself

and Soldier E swapping positions and then later indicates that he provided covering fire “for other members of my unit changing positions”. It seems, therefore, that the ciphered soldiers were not static, making it more difficult still to ascertain who shot from where.

4.137 The RMP plan appears to have tried to plot the position of gunmen mentioned in the statements on the map. By way of example only, Position 11 is at the Corrigan Park pavilion mentioned by Soldier G; and Position 9 is at the bank at the north end of Corrigan Park. Position 12, and a small rectangle drawn on the plan, is said to represent the “estimated position of [the] car from which gunmen deployed”. It is located just to the west of the ‘circle’ found between Nos 47, 39, 52 and 60 Westrock Drive. It is perhaps curious that only one car is shown on the plan and referenced as a car (singular) from which gunmen deployed, when Soldier A did not describe gunmen deploying from a car and Soldier E, who did, described two such cars.

4.138 Finally, the plan shows nine positions marked with an ‘X’. Each of these markings is to indicate the position of fallen gunmen. These positions are presumably designed to match the nine ‘hits’ discussed above (see para 4.121) and, broadly, appear to do so. On occasion, but not always, they correspond with a numbered position from which a civilian gunman was said to be shooting.

4.139 The plan is accompanied by a key or legend which is titled as follows: “Shooting incident which occurred Corries Woodyard/Westrock Drive between 2000hrs - 0100hrs 9/10 Jul 72. Legend to map”. For ease of understanding, the RMP plan and legend are appended to this ruling at Appendix E. The text of the legend is as follows:

- “1. 2000. Soldier from position A fired 4x7.62 rds at gunmen in position 1 & 2. 1 poss. hit.
2. 2030. Soldier from position C fired 4x7.62 rds at gunmen deploying from car at position 12. 1 poss. hit.
3. 2100. Soldier from position C fired 4x7.62 rds covering fire at position 6.
4. 2115-2145. Soldier from position C fired 3x7.62 rds at several gunmen in position 6.
5. 2130. Soldier from position H fired 3x7.62 rds at gunmen in position 3. 2 hits.
6. 2130-2200. Soldier from position E fired 4x7.62 rds at gunmen in position 6.

7. 2140. Soldier from position H fired 4x7.62 rds covering fire at position 6.
8. 2150. Soldier from position B fired 4x7.62 rds at gunmen in positions 4 & 5. 2 hits.
9. 2150. Soldier from position G fired 4x7.62 rds at gunman in position 10.
10. 2200. Soldier from position C fired 1x7.62 rd at gunman in position 9.
11. 2200. Soldier from position C fired 1x7.62 rd at gunman in position 7. 1 hit.
12. 2200. Soldier from position D fired 2x7.62 rds at gunman in position 8. 1 poss. hit.
13. 2205. Soldier from position B fired 4x7.62 rds as covering fire at position 6.
14. 2300. Soldier from position F fired 4.7.62 rds at gunman in position 11. 1 hit.

Total number of rounds fired by SF during action:- 48 x 7.62 rds. (including 2 rounds fired to extinguish lighting in area)

Out of total rounds fired, 12 were fired as covering fire with no specific target identified.”

4.140 Comparing this to my own analysis (set out at para 4.121 above) I would make the following observations:

- (a) First, the RMP identified shots from a soldier at Position A – likely to be Soldier D – at 20.00. As noted above (see para 4.122), this is not supported by his statement. Although it said he located two gunmen about 20.00 (before coming on duty at 21.00), the statement says he requested permission to rerun fire about 22.00 and did return fire (at gunmen around Positions 1 and 2) between 22.00 and 23.00. The RMP legend does not, therefore, record the possible hit claimed by Soldier D (at Position 1 or 2) between 22.00 to 23.00 but places this much earlier.
- (b) The shooting, around 20.20, of an individual running into the Westrock Flats described by Soldier A and attributed to Soldier E (who recounted having

been told by Soldier A that a gunman had fallen in front of 92 Westrock Drive) is not clearly referred to in the legend at or about that time. An 'X' is on the plan outside 92 Westrock Drive (in the alleyway between the Springhill flats) indicating a fallen gunman. The relevant entry on the legend may well be that at 20.30 which describes a soldier at Position C firing at gunmen deploying from the car at Position 12 with one possible hit. However, the location of the 'X' is not in the vicinity of the location of the car.

- (c) Indeed, none of the 'X's appears to be at the location of the car so that, assuming Martin Dudley was shot in or beside the car, his shooting does not appear to have been accounted for in that way. There is an 'X' in the front garden of 60 Westrock Drive (the Tutons' bungalow) but no accompanying description of a 'hit' at that location.
- (d) Most of the other 'hits' identified within the legend accord roughly with my own analysis, save for two further issues set out below.
- (e) The RMP do not record what I have identified as possible "Hit 7" (Soldier G shooting a man at a mound at the north of Corrigan Park around 22.00). No 'X' is recorded at this location, indicating perhaps that the RMP thought this was unlikely to have been an actual 'hit'.
- (f) The legend to the RMP plan nonetheless also has nine hits overall because it records a possible hit at 22.00 at Position 8 (the northeast corner of 62 Westrock Drive). This looks to relate to the incident described in Soldier C's statement where he recounts firing at a male at an open window in an upstairs block of flats (identified as No 68 but also as on the north-eastern corner of the block and opposite No 60). I did not record this as even a 'possible' hit as Soldier C's statement said that he fired two aimed shots and saw both strike the wall to the left of the window. There was nothing to indicate that the shot struck the gunman.

The army radio logs

4.141 A number of army radio logs are available which provide an extremely helpful contemporaneous account of what was being reported over army radio networks at the time of the incidents which are the subject of this inquest. Regrettably, what is likely to have been the most detailed and most helpful log for this purpose was unavailable.

4.142 The inquest did have access, however, to the log sheets from 1 Kings Headquarters ('the Battalion Log'); and from the 39 Infantry Brigade Headquarters ('the Brigade Log'). What is missing are the radio logs from the individual 1 Kings *company* headquarters, including in particular the log for the radio network for C Company, the company most involved. The result is that there are records of limited communication between C Company and the Battalion HQ (and, in turn, between

Battalion HQ and Brigade HQ); but *not* the radio communications from sections within C Company back to their company headquarters. These are likely to be the most detailed and contemporaneous records. They would record, for instance, a radioed request for the QRF to be deployed to Corry's Yard (and, presumably, the reasons for this); and more detailed reports back to the Company HQ of how things were developing on the ground. No satisfactory explanation has been provided as to why these logs are no longer available when those at the higher levels are (and when I understand that logs at a similar level appear to have been available in other legacy inquests arising from incidents in the early 1970s).

4.143 The most relevant entries from the Battalion and Brigade Logs relating to 9 July 1972 and into 10 July 1972 are referenced below.

The Battalion Log

4.144 An entry at 17.12 on 9 July 1972 of a report from Brigade HQ notes an IRA broadcast in the following terms: "All Bns [battalions] to report to Lenadoon Ave[nue]". An entry at 18.16 noted that IRA radio had said that the army had broken the truce by firing baton rounds and gas. At 18.32 1 Kings was informed that there was a large gunfight in the Lenadoon and Suffolk area.

4.145 A significant entry in the Battalion Log at 20.00 on 9 July from call-sign V3 (understood to be C Company HQ) recorded that L/Cpl SM9 had sustained a potentially serious gunshot wound at Mayo/Springfield Road. He was said to have been hit by a gunman from Elswick Street. This communication also indicated another injury, this time of Sgt Durkin who had sustained a gunshot wound to his leg at the Springfield Road, halfway between the Monagh Roundabout and Kelly's Bar.

4.146 MoD counsel emphasized a number of entries referring to high velocity shots being fired in the wider area (for instance, at Henry Taggart Hall or Whiterock Road) around 20.20. However, the first entry in the Battalion Log specifically relating to Corry's Wood Yard was at 21.00 hours from C Company HQ (V3). It noted that three high velocity shots were reported by Corry's observation post from the direction of Corpus Christi Church. It was "not known" if these were at security forces ("SF"). In the MoD submissions, the points were made that these shots were around the time of the IRA announcement that all of its units were to resume offensive action; and that they occurred before a single shot had been fired by a soldier (at least using the timings in the radio logs). Those submissions relate this serial entry to the reference in Soldier D's statement to seeking permission to return fire at two gunmen he identified near Corpus Christi Church. However, as noted above (see para 4.140(a)), there is some confusion about the time of that incident; and on neither time mentioned in Soldier D's statement was it at 21.00. However, Soldier D does mention his position in the elevated sangar being "engaged by gunmen located in a number of positions around the wood yard" (without specifically mentioning Corpus Christi Church at that point) shortly after he commenced duty.

4.147 At 21.25 there was a radio message to Battalion HQ from Brigade Command stating that the ceasefire was not officially over. Some instructions were given, principally relating to A Company, and it was noted that OPs (observation points) were to “return fire as per yellow card”. Soldiers were instructed not to “penetrate Catholic areas”. This was provided for the various companies’ information.

4.148 Significantly, there is no contact to Battalion HQ from C Company (V3) from 21.00 until 22.00. An entry at 22.00 from C Company related to two high velocity shots near Paisley Park, not related to the Springhill location.

4.149 The next entry in the Battalion Log apparently relevant to the situation at Corry’s Yard was at 22.03, when C Company HQ reported a burst of automatic fire from the area of Corpus Christi Church. It was noted that there were no casualties and “NFR” (no fire returned). At 22.12 there is reference to C Company reporting two high velocity shots from Corpus Christi Church. No further information is provided. At 22.23 a further entry, apparently from A Company (V1), recorded a burst of automatic fire at the southern end of Corry’s. (The MoD’s consistent position in this inquest has been that, as the soldiers were not issued with automatic weapons, one can assume that this is likely to be civilian fire. I have generally proceeded on that basis. No military witness gave evidence of their being in possession of, or using, an automatic weapon; nor of seeing another soldier do so, albeit several military witnesses had been trained to use such weapons.)

4.150 At 22.24 there is the following entry of a communication from C Company:

“Machine gun plus No of gunmen firing in area. Engaged gman [gunman], 3 hits claimed, one man lay for a long time before being dragged away.”

4.151 The next entry from C Company of 22.29 is in the following terms:

“OP Corry’s 2 cars stopped in Westrock Drive. 8 men debussed now diss [dispersed or disappeared?] into dead ground. Amb [ambulance] also seen same area.”

4.152 It appears that a gun battle then followed. By 22.35 there was a report from C Company that they were “engaged in [a] gun battle in Corry’s”. It said “this is gunfire reported by V1”. That appears to refer to two entries in the Battalion Log of communication from A Company (V1) at 22.30 which reported that its observation post reported five shots from the direction of Corry’s; and, again, at 22.35, A Company reported 13 shots from the direction of Corry’s. It appears, therefore, that, at that point, there was a significant amount of gunfire in the area. It also seems clear that A Company was able to hear shots at the Corry’s location from its observation post in a nearby area within its TAOR. C Company HQ explained to

Battalion HQ that A Company was reporting overhearing fire from a gun battle in which it was by then involved.

4.153 The Battalion Log then supports the suggestion that, from 22.30 on, there was a sustained attack on Corry's Yard. At 22.36 there is a report from C Company of two blast bombs being thrown over Corry's wall; and a report at 22.40 of four blast bombs being thrown over the wall. An entry at 22.45 from C Company notes another two blast bombs over the wall at Corry's observation post and several gunmen firing from different positions. Entries at 22.50 and 22.53 record four and five more blast bombs respectively being thrown into Corry's Yard. The entry at 23.08 indicates that, so far, at least 20 blast bombs had been thrown over Corry's wall.

4.154 An entry from C Company at 22.56 records a gunman being hit near Corpus Christi Church and fire being returned at a gunman from Corry's observation post. (It is possible that this relates to the hit claimed by Soldier D, firing from his observation post to an area near Corpus Christi, between 22.00 and 23.00.)

4.155 The entry of 22.59 records a gunman firing at C Company from Workman Avenue. The entry at 23.03 records one high velocity from the southern end of Isadore Avenue at the base area. By this time there were apparently attacks on a variety of C Company locations within its TAOR. An entry at 23.05 from C Company notes that, so far, approximately 40 x 7.62 mm rounds had been returned at gunmen.

4.156 The entry at 23.06 from C Company says that a gunman was seen on or from (it is not made clear, but perhaps more likely *on*) the roof of Corry's, with fire being returned to him. A report at 23.15 from A Company records a gunman seen inside the corner of Corry's firing at Dunboyne Park (which was a Protestant area to the north of Springfield Road). A sub-unit was now going "to sort him out".

4.157 An entry at 23.36 from C Company records two high velocity shots at Corry's from Corpus Christi, with no casualties and no fire returned. An identical report is provided by C Company the following minute, at 23.37. In a later serial entry from C Company, although timed at 23.36, there is a report of fire coming into Corry's intermittently from the Westrock/Whiterock areas, which appeared to be coordinated. Another entry of 23.41 records one high velocity shot at Corry's from Corpus Christi Church, with no casualties and no fire returned. Later reports indicate gunfire at Corry's from Springfield Park. The impression from the Battalion Log is that, from around midnight onwards, there was less shooting at or around Corry's Yard. The intense gun battle appears, from this radio log, to have occurred from around 22.30 to 00.00.

4.158 A situation report at 00.20 in relation to rounds fired records from C Company that 250 rounds had been fired at them, with 82 returned (44 single shots

and “any bursts”). This estimate, however, may relate to various sections and platoons of C Company and not merely those at Corry’s Yard.

4.159 An entry from 01.56 from C Company records 10 to 15 low velocity shots heard in the area of Westrock. A further entry of 02.00 from A Company indicates that there appears to be a fire at the “back end of Corry’s”. There is a further report at 02.40 from C Company that the observation post at Corry’s Yard saw two gunmen by starlight scope, one armed with a Thompson and one with a 9 mm pistol. One was also carrying a large bag. They were unable to fire. The house number was noted which would be sent when the observation post saw a large-scale map. (In his evidence SM108, who was a section commander, was asked about access to maps on duty at Corry’s Wood Yard. He did not think that soldiers had a detailed map of the area and agreed that, if a soldier did not have a map on observation duty there, he could not have identified a house number. SM79 also said in evidence relating to guard duty in the OP at Corry’s Yard that there was no map of the area whatsoever available there. This radio entry appears to support that evidence.)

4.160 As discussed later, there are a number of entries in the army radio logs relating to reports being received about the deceased and injured, particularly when they arrived or were treated at hospital (the RVH, where Support Company was stationed). On occasion, there are also entries relating to such reports either from the press or from the police. For instance, there is an entry at 23.34 noting that Brigade HQ was informed of a report from press sources of a priest being hit by gunfire at Corpus Christi Church.

4.161 Returning to an earlier period of the night, a report from A Company of 22.41 notes a report of a gunman on the roof of the SPD. Shortly afterwards, an entry from C Company of 22.46 reports that fire was being returned at a gunman who was firing from the roof of the SPD at Corry’s observation post. A further report three minutes later mentions firing from the roof of the SPD factory towards Dunboyne Park and that there was a sub-unit to be sent in in pigs. (It is unclear whether these references to the roof of the SPD Factory relate to the same gunman said to be seen on the roof of Corry’s or in Corry’s and firing at Dunboyne Park. It might well be that this is the same incident and that the SPD premises, which sat just to the north of the Corry’s site at its north-east corner, may have been described as or mistaken for part of the Corry’s site.) In any event, between 22.40 and 23.15, it seems that there was at least one gunman in the Corry’s and/or SPD premises who was to be found and dealt with. This, along with the blast bomb attacks, likely accounts for a number of the ciphered soldiers indicating that they later patrolled outlying areas of the wood shed. Soldier A’s statement, for instance, indicated that he was in the SPD Factory at 23.45. The discharge of rounds at or about that location was also investigated by the RMP the next day. For convenience, I refer to the clearing of the SPD premises and related areas as ‘the SPD incident’.

4.162 As can be seen above, the picture gained from the Battalion Log of the situation at Corry’s Yard on the evening of 9 July 1972 is that (1) there was no

shooting reported at that location until three high velocity shots were heard at 21.00 from the direction of Corpus Christi (although it was “not known” if this was at security forces, i.e. this does not appear to have been a clear attack on the wood yard); (2) the next reported shots were a burst of automatic fire at 22.03, again from Corpus Christi, but there was no fire returned; (3) after this there was some more sporadic shooting reported; but (4) by 22.24 a more substantial gun battle had commenced with three civilians hit and at least one dead. In summary, the position reported to Battalion HQ from C Company (and, to a lesser degree, A Company) appears to have suggested that the position was relatively quiet up to around 22.00, with major escalation around 22.23/22.24.

4.163 The Battalion HQ was also in touch with the RVH and an entry in the log timed at 01.50 from the RVH refers to a number of persons admitted from 21.50 to 23.50 hours who were “DOA” (dead on arrival). These included Margaret Grogan (presumably Margaret Gargan) of Westrock Drive with a gunshot wound to the head; David McCafferty; an unidentified person (referred to as “B”) with a gunshot wound to the chest; and Patrick Butler of 571 Westrock Drive with a gunshot wound to the heart. An entry at 01.51 from the RUC also reported that the body of Father Noel Fitzpatrick was at 80 Springhill Ave, this apparently coming from a report from the Irish News via the RUC Press Office. The following day, clarification was provided that the man admitted to the Royal at approximately 23.30 the preceding evening had now been identified as Joseph Dougall of 91 Springhill Ave (date of birth 22 December 55) (see serial entry 11 at 10.00 from the Battalion Log of 10 July).

4.164 This particular log was closed at 03.30 on 10 July. The next log commenced at 03.32 with a report from the RVH commenting that various people had been admitted to the hospital with gunshot wound injuries. These included Brian Pettigrew, aged 17, who was reported to have been found at Westrock Drive, of Westrock Gardens, with a gunshot wound to the back; and Martin Dudley, reported to be found in Springhill with a gunshot wound to the head.

Comparison with statements of ciphered soldiers

4.165 I have spent some time trying to reconcile the incidents recorded in the Battalion Log with the timings and descriptions set out in the ciphered statements. It is simply not possible to reconcile the two in a clear and comprehensive manner. There is obviously some overlap in matters described but much of the content of the ciphered statements finds no equivalent reference in the Battalion Log; and the timelines do not match up neatly, if at all.

4.166 There are a number of fairly obvious discrepancies in the timings indicated by at least some of the ciphered soldiers in their statements and those indicated by the Battalion Log. Four are potentially of particular significance:

- (1) Several of the ciphered soldiers make the point that there had been significant gunfire towards Corry’s Yard before their arrival. Soldier B refers to

concentrated fire; Soldier C refers to heavy fire from gunmen; Soldier E refers to a gun battle going on; and Soldier G also mentions considerable fire from the area prior to their arrival. Not all of the ciphered soldiers necessarily arrived at the same time; and it is unclear precisely when some of them arrived on the scene. Generally speaking, however, it seems that they were suggesting significant levels of fire directed towards Corry's at or prior to 21.00 hours (or even earlier, given that Soldiers A and E refer to timings of 20.15 and 20.30). This simply does not appear to be borne out by the radio logs. If there was a considerable gun battle or attack requiring the deployment of the QRF, one would have expected this to have been reported back to Battalion HQ by C Company. Relatedly, the ciphered statements suggest major attacks on the yard at times in advance of 22.00. This is simply not borne out by the log which has a period of 'radio silence' from this location from 21.00 (serial entry 64) until 22.03 (serial entry 84).

- (2) Second, the two cars which are reported to have stopped in Westrock Drive resulting in eight men 'debussing' are reported by C Company HQ as having arrived at 22.29. This is a considerable period *after* they are suggested as having arrived in Soldier E's statement (and, to the extent he addresses this, Soldier A's statement). Soldier E times this around 20.30, some two hours before the report is made to Battalion HQ by C Company HQ. Soldier A, who also saw the yellow Triumph Herald, timed this even earlier, around 20.20. That appears to be a major discrepancy in the timings disclosed between the ciphered statements and the radio logs.
- (3) Third, the entry from C Company HQ at 22.24 records "3 hits" being claimed and one man being dragged away, having lain "for a long time". This appears to suggest that civilians were shot *before* the two cars arrived; indeed, that at least one man was shot "a long time" before the two cars arrived. In turn, this appears inconsistent with the arrival of the cars precipitating, or occurring at the same time as, an attack on the wood yard occurred and fire was returned by the army.
- (4) The first 'hits' claimed, according to the Battalion Log, are at 22.24 albeit that, as noted above, one of these appears to have occurred some time before the report because a man was reported to have lain for a long time. Nonetheless, at that point, three hits are reported. However, on an analysis of the ciphered statements - whether my own reading (see para 4.121 above) or the RMP reading of them (see para 4.139 above) - there were up to eight hits claimed by 22.24. On my assessment, there were six hits of which the soldiers appeared confident by then. The RMP has eight hits recorded also, although with three of them only "possible hits". On either view, however, one would have expected more hits or possible hits than three to have been reported by 22.24.

4.167 It is clear that there are occasions when a “belated entry” was specifically referenced in the log (for instance, serial 53 on sheet no 4 of the Battalion Log for 9 July 1972). The log sheets show other instances of a “late entry” being recorded. In addition, there are also examples of later serial entries being out of time sequence, that is to say, where the recorded time is earlier than a number of preceding entries, indicating again that a late report had been made of an earlier incident (see in particular serial entry 74 timed at 21.25; and the flurry of reports at serials 113-124 between 23.15 and 23.42, which contain a range of reports which are recorded out of sequence). The same phenomenon may be noted in the Brigade Log. There is nothing whatever to indicate that this has occurred in relation to the report of the stopping of the two cars at 22.29. As it happens, I ultimately consider it likely that the car or cars arrived some time before they were reported; but it is unusual that this is not clearly acknowledged or back-dated in the logs. Rather, the actual sequence is consistent with a report about the cars not being made (or not being reported from company to Battalion level) whilst consideration was given to how actions on the ground which may have got of control should be reported.

4.168 There are also a number of matters referenced in the ciphered statements which one might have expected to have been reported back to Battalion HQ but which do not appear in the Battalion Log. For instance, many other serial entries in the Battalion and Brigade Logs indicate sightings of gunmen being reported before they were engaged with a description of their location and sometimes actions. None of that appears here. Most importantly, however, there is a significant discrepancy in the number of hits claimed overall as between the ciphered statements and the Battalion Log. In the ciphered statements there are some nine hits, or possible hits, identified. The Battalion Log only refers to four hits claimed by C Company in the relevant period: the three in the entry of 22.24; and one in the entry of 22.56.

4.169 The inescapable conclusion – assuming for the moment that the ciphered statements are truthful – is that there were a number of instances of the ciphered soldiers stationed at Corry’s Wood Yard shooting at civilians, whom they believed they had or may have hit (and killed or injured), which were *not* reported back to Battalion HQ by C Company HQ. Whether C Company HQ was aware of these or not cannot now be known in light of the absence of the relevant radio logs from that network level. Given the detail of reporting evident throughout the Battalion Log generally, however, I would have expected the full number of hits or possible hits to have been reported up to Battalion HQ. This raises questions as to the absence of reporting to Battalion HQ of the ‘missing’ hits.

4.170 The same point can be made by reference to the known deaths and injuries. There were five deceased and two injured (Martin Dudley and Brian Petticrew) in the incidents. Assuming they were each injured by army fire – as I have ultimately concluded on the balance of probabilities – one would have expected the Battalion Log to have recorded at least seven hits, rather than merely four.

4.171 The unsatisfactory position finally reached is that the Battalion Log appears to under-report the casualties and the ciphered statements appear to over-report them; with neither clearly identifying the deceased or injured person on each occasion.

The Brigade Log

4.172 The Brigade Log, recording radio reports from the various army battalions reporting back to 39 Brigade, contains only more sporadic updates from 1 Kings but, one imagines, should also include any significant events which the Battalion HQ thought should be reported.

4.173 On 9 July 1972, this log shows 1 Kings updating Brigade HQ about the shooting of two of its soldiers at the vehicle check-points at Ainsworth Street and on the Springfield Road around 20.00: a serious gunshot wound to L/Cpl SM9 and a leg wound to Sgt Durkin. (Later reports indicate that empty cartridges were found at the north end of Elswick Street and there was a “fairly good marksman somewhere in that area”; and, later, empty Armalite and Carbine cases were found related to the shooting of SM9.) There is a report of Henry Taggart Hall being under fire at 20.19. However, there is no communication in relation to Corry’s Yard or the Springhill and Westrock areas until 21.00.

4.174 A report from 1 Kings at 21.00 records that three high velocity shots have been heard from the area of Corpus Christi Church but it is noted that security forces were “not involved”. (It is unclear whether such a reference means security forces were not the target of the shots, whether that is unknown, or simply whether security forces did not return fire.) There is then no further relevant report in relation to that location from 1 Kings until 22.00, which records a burst of automatic fire at the observation post in Corry’s, again from the area of Corpus Christi Church, with no casualties and no fire returned. (This seems to correlate with the entry in the Battalion Log at 22.03 to the same effect.) At 22.12 there was a report of two high velocity rounds in the area of Corpus Christi Church, again with security forces not involved. (This seems to correlate with the entry in the Battalion Log of the same time.)

4.175 An entry in the Brigade Log at 22.28 from 1 Kings records: “OP at CORRIES under heavy fire from MGs [machine guns] and Armalite – fire returned and 3 hits claimed. One gunman seen to lie in road.” (This seems to correlate with the entry in the Brigade Log at 22.24: see para 4.150 above.)

4.176 This is followed at 22.32 with a report in the following terms: “Corries Op reports car with 8 men Westrock Dve. Orders were shouted at them and ambulance seen in the area.” (This seems to relate to the incident described in the entry in the Brigade Log of 22.29: see para 4.151 above. However, on this occasion, only one car is mentioned, rather than two. There is an additional reference to “orders” being shouted at the men. In both reports there is a mention of an ambulance being seen in the area.)

4.177 At 22.37 an entry records that Corry's was under fire from "N of locs" (which I understand to mean a number of locations, rather than north of locations, when read in context with other entries).

4.178 The Brigade Log also records reports from 1 Kings at 22.42, 22.47 and 22.49 relating to a gunman at the SPD premises. It was first indicated that Corry's OP was under fire from a gunman on the roof of the SPD Factory and that 1 Kings was going to engage. It was then reported that there was heavy firing from the roof of the SPD northwards to the Dunboyne Park area. A sub-unit was to be sent into the factory. It seems that this may have been in a 'pig'. Around the same time it was reported to Brigade HQ that blast bombs were being thrown over the wall of Corry's. At 23.02 an entry notes that 1 Kings was arranging to clear Corry's and Isadore Avenue. This supports the reporting in the Battalion Log that soldiers were being redeployed to clear the SPD Factory and/or outlying parts of the Corry's complex. It is possible that part of the QRF went to do so on foot or in the 'pig' in which they came to Corry's, assuming it was still there.

4.179 At 22.55 there is a report from 1 Kings that fire was returned at a gunman engaging the Corry's OP from the area of Corpus Christi Church, with one hit claimed. (This appears to correlate with the entry in the Battalion Log of 22.56.) At 23.02 there was a report from 1 Kings that they were arranging to clear "Corries" and Isadore Avenue. At that point 40 x 7.62 rounds had been returned. An entry at 23.04 noted that a gunman had been observed firing at 1 Kings' troops in Corry's and fire was being returned; with a report of the same time noting that a total of 20 blast bombs had been thrown into Corry's.

4.180 I note in passing that, in this log, there are references to Corry's OP (singular), rather than Corry's OPs in the plural, perhaps suggesting that there was only one observation post at Corry's; or, at least, that there was a main observation post which would have been understood to be the OP being referred to without additional clarification or qualification.

4.181 A report at 23.12 was to the effect that there was a gunman in the south-west corner of Corry's Yard firing into Dunboyne Park and 1 Kings were "getting him out". Shortly after, at 23.17, there was a report that the gunman at the south-west corner of Corry's was still firing at Dunboyne Park and two sub-units had been deployed to deal with this. A situation report from 1 Kings at 00.04 noted that the sub-unit in the southwest corner of Corry's "now reported died down". There were, however, two gunmen in the Laundry area south of Springfield Road opposite Britton's Parade. At 00.14 the report was that two gunmen were seen in the area of the Laundry south of the Springfield Road opposite Dunboyne Park and they were firing at the army's patrols in the SPD factory and north into Dunboyne Park.

4.182 Leaving the issue of gunmen within Corry's Yard, the SPD Factory and the laundry premises: an entry in the Brigade Log at 23.15, indicating a communication

from the police, noted that there was a rumour that a priest had been shot in Andersonstown and the army was asked to check.

4.183 At 23.24 there was an entry indicating a communication from 1 Kings that two high velocity shots had come from Corpus Christi Church at Corry's. There were no casualties and no fire returned. A similar entry is recorded, in materially identical terms, at 23.28. At 23.33 there was a report that Corry's OP was under fire from Westrock/Whiterock intermittently and that this appeared to be coordinated. There had been one slight casualty, not from gunshot wounds but probably from jumping a fence. (I assume this refers to an injured soldier.) At 23.37 there was a report of one 7.62 mm round being fired at a gunman seen by the laundry on Springfield Road, with no hits claimed. At the same time, there was a report of one high velocity shot at Corry's from Corpus Christi, with no casualties and no fire returned. An entry at 23.54 recorded two bursts of automatic fire at Corry's OP.

4.184 An entry at 00.23 recording a situation report from 1 Kings reported that the area to the West was "all quiet". In Corry's, Springfield Park and Moyard, 282 high velocity shots and low velocity shots had been fired at their patrols and 1 Kings had returned 90 x 7.62 rounds. There was still some shooting in the area later, however. An entry at 01.57 records 10-15 low velocity shots heard in Westrock/Whiterock, although it is noted that security forces were not involved.

4.185 An entry at 00.50 from HQNI gave details of hospital admissions. These included Brian Pettigrew of 66 Westrock Drive who was said to be not dead, with a gunshot wound, at the RVH; David McCafferty, who was dead at the RVH; Margaret Sturgan (13) of Westrock Drive, who was dead (again, presumably Margaret Gargan); and Martin Dudley from Springhill, very seriously injured, at the RVH, possibly from Springhill. An entry at 01.12 from 1 Kings reads: "No trace of priest dead in RVH". At 01.41 there was a report from 1 Kings of a report from the Irish News, via the RUC Press Office, that the body of Fr Noel Fitzpatrick was at 80 Springhill Avenue.

4.186 At 01.30 there is a record of five dead persons in the RVH which came from Kings to Brigade HQ. (This is another example of an entry which is timed out of sequence with, and prior to, entries on a previous sheet. This entry provides similar information, although in different terms, to that recorded in the Battalion Log at 01.50 on the morning of 10 July 1972). The Brigade Log entry, which appears to have admissions times included, is in the following terms:

"5 dead in RVH:

1. Margaret Gogan GSW head Westrock Dve dead admit 2245.
2. David McCafferty dead - GSW 2245.
3. Mr "B" aged approx 17 yrs GSW chest dead 2245.

4. Patrick Butler aged 35-43 about 57 Westrock Dve - GSW head - dead 2350.
5. Angela Fianda. [Redacted] - GSW chest dead 2150."

4.187 A later entry of 02.20 notes, "Father Noel Fitzpatrick has just been admitted to RVH - DEAD GSW NECK. MILO trying to find out how it happened." A later entry at 02.55 explained re Fr Fitzpatrick:

"Taken in by a Knights of Malta ambulance and driver said he had been shot between 21.15 and 21.45. Brought in at 02.15. No reason for delay. He may have been found at 80 Springhill Ave (unconfirmed). His contact address is: 442 Falls Road, St John Presbytery"

4.188 A later entry still, at 03.30, from 1 Kings, apparently reporting news from the RVH, was that an ambulance did go to 80 Springhill Avenue but was told to go away. It is said that this was at 00.01, "so the priest may still have been alive".

4.189 The following day, sometime between 11.03 and 11.20, there was an entry from 1 Kings in relation to the bodies which had been found. John Joseph Dougal of 91 Springhill Avenue was said to be Section Leader of the Sean Doyle Slua; Martin Dudley of 58 Westrock Drive (which is an incorrect address) was indicated to be very seriously injured, expected to die, and identified as an IRA volunteer; and Brien Pettigrew [sic] was also said to be a Fian. His address was given as 56 Whiterock Drive (which is incorrect) and, oddly, it is noted that he was "SI GSW" (seriously injured by gunshot wound) to the back, but also that he was "dead on arrival" at the RVH.

The RMP log

4.190 The inquest was also provided with the radio log for 178 Provost Company RMP for the relevant time period. There appear to be very few contemporaneous entries, if any, relating to the shooting at or near Corry's Yard (which may be unusual since, in respect of a number of other shooting incidents which the RMP would in due course be required to investigate, there do appear to have been communications advising the RMP of the incident shortly after its occurrence).

4.191 Entries are also to be found on this log relating to the admission of the deceased and injured to hospital, in the following terms in an entry timed at 02.45 on 10 July 1972:

"New arrivals to RVH.

MARGARET GOGAN	16 yrs? †
Westrock Dve	

Found by civilians outside No. 8 Westrock Drive about 2230 hr. GSW wound to head. No further info. Identified by father.

2/ DAVID McCAFERTY Age ? †
Picked up by civilian Ambulance at 22.40 hr in Springhill Ave. Found at 2240 hr. GSW to head.

3/ ONE UNIDENTIFIED MALE BODY †
which arrived at RVH with McCaferty.

4/ PATRICK BUTLER 35-43 yr
57 Westrock Drive. R.C. †
GSW head. Found 2300 hr in Whiterock Rd outside No 84.

INJURED

MARTIN DUDLEY 20 yrs
Address: Springhill? Found with GSW to head. Found by Civy ambulance 2240 hr. Serious.

Brian Pettigrew 17 yrs
Found by civy ambulance crew in Whiterock Gdns at 2300. No address as yet. GSW to back. Serious."

4.192 The next entry recorded that another dead body had been admitted to the RVH, that of Fr Noel Fitzpatrick, with a gunshot wound to the neck. It goes on to suggest that Fr Fitzpatrick was shot in the Whiterock Rd/Springhill at 21.43 hours and was admitted to the RVH at a time which is difficult to decipher but looks like 21.45 (which could not be right).

4.193 The RMP Log for 9 July 1972 concluded with an entry at 07.10 on 10 July 1972. (This was in Sgt SM344's handwriting and discussed with him in his evidence.) The next log available from 178 Provost Company commenced on the morning of 11 July 1972. Strangely, the log for the majority of the day on 10 July 1972 - when the various RMP officers who took the ciphered statements went out and did so - does not appear to be available.

Other military records

4.194 There are a variety of other military records which were made available to the inquest some of which have relevant entries relating to the events in question. These include the 1 Kings Tour Diary. The entries in this diary, seemingly kept by Captain SM231 (the Operations Officer), tend to mirror (and look to be drawn from) entries in the Battalion radio log. Occasionally, additional information is provided or

slightly different language is used. For instance, an entry timed 21.00 in the Tour Diary for 9 July 1972 is in the following terms: "Gunfight began between Corry's OP + gunmen in Whiterock".

4.195 The next entry relevant to the activities at Corry's is timed 22.20 and is in the following terms:

"MG [machine gun] + several gunmen attacked Corry's woodyard. OP had been reinforced to one sect +, and scored 3 hits, one probably dead (lay still in rd for 10 mins before being dragged away). [illegible] arrived by car [illegible: possibly "via"] Whiterock. Much more shooting + 18 blast bombs. No cas. Gunmen then seen on roof of factory to [illegible: possibly "east"] of Corry's. Coy mounted clearance op through Heinz, Laundry + SPD, + fire returned."

4.196 SM207 gave some evidence about how the Tour Diary would be compiled. He indicated that it would be written up by Capt SM231 each day, based on the radio logs but also with some interpretation. He understood that "one section +" meant slightly more than one section. He also interpreted the first text I have identified as illegible as referring to "enemy reinforcements" arriving by car. (The text might well read "En rfcts". SM207's evidence was that enemy reinforcements was what that meant. I accept he is likely to be well placed to interpret this.) The HET materials disclosed by the PSNI also contained a note of a meeting with SM207 (previously Secretary for 1 Kings), SM83 (previously SM207's "number 2") and SM231 who was spoken to on the phone. SM231 confirmed that he was the author of the diary, which he recorded on a daily basis as incidents occurred. He was office-bound and much of the content was taken from radio communications and intelligence reports. SM231 had no personal experience of the incidents reported on. This note also suggests that SM207's interpretation above is correct.

4.197 The next entry, untimed, notes that all company bases, except Support Company in the RVH Annex, were "repeatedly engaged by gunmen during the last hour or so of daylight" but that "this sort of firing died out as darkness fell". It then notes wryly that the writer was "reassured to learn that cease fire still in operation in the middle of all this!" (in an apparent reference to a communication from Brigade Command).

4.198 The entry for 22.56 refers to one of the gunmen firing at Corry's observation post from Corpus Christi Church area having been hit; and there having been a total of 20 blast bombs at Corry's "plus innumerable" machine gun, rifle and small machine gun shots. The Tour Diary goes on to note that, by 00.30, there had been 250 rounds fired at Corry's (30 to 50 at other bases) and that the army had returned 82 rounds in the Corry's area and 8 rounds elsewhere. (As with the radio logs discussed above, only four hits appear to be claimed by troops stationed at Corry's

throughout this time. It may also be worth noting that the 82 rounds returned in the Corry's area appears to be significantly higher than the 48 rounds mentioned in the legend to the RMP plan: see para 4.139 above. This may, however, include some additional rounds discharged in the SPD incident.)

4.199 The diary records the reports of five dead bodies being brought into the RVH and the report from the RUC, at 01.50, that Fr Fitzpatrick was dead in Springhill Avenue. The diary notes:

"He was taken to RVH by Knights of Malta amb[ulance], and admitted at 0215. Amb men said that he'd been shot (did they mean killed?) at 2115-2145. No idea where he'd been for the missing 5 hours, nor when he actually died. An RVH ambulance went at about midnight to Springhill Ave, but was told that there was no one there to be taken to hospital. It is possible that Fr Fitzpatrick was already wounded then + in a house in Springhill Ave (judging by accounts to the Press) but that the people there didn't want him taken away in a Prot amb for some reason?"

4.200 The Director of Operations' Brief summarizing matters on 9-10 July 1972, referred to in Chapter 3, provided the following report after the paragraph detailing the events in Lenadoon:

"2. Elsewhere in BELFAST shooting broke out after the IRA announcement and fire was particularly fierce in the BALLYMURPHY, BONE, FINAGHY RD NORTH and DONEGALL Roundabout areas. Other than the LENADOON incident there were 216 shooting incidents recorded, of which 125 were directed at [Security Forces]. There were 5 military casualties of which one is [very seriously injured]. Fire was returned 51 times and initiated by [troops] 11 times. 14 hits were claimed. 8 civilians were reported dead as a result of [gunshot wounds] including a Catholic Priest and 13 year old girl. There were a further 6 civilian casualties admitted to RVH with GSWs. There were two large car bomb incidents. During engagements AP rounds were fired at SF and at least 3 PIGS were pierced. All orange marches passed without incident."

4.201 This entry is potentially noteworthy for a number of reasons. First, neither Springhill nor Westrock is mentioned as an area where fire was particularly fierce. However, it seems likely that one or both of those areas was taken to be included in the general reference to the Ballymurphy area. (A later portion of the brief describes the activities of 1 Kings, which is referred to as being in Ballymurphy.) Second, the

brief describes shooting having broken out after the IRA announcement. Read with the end of para 1 of the brief, which refers to a report at about 22.00 hours of an announcement from the Dublin HQ of the IRA, the brief (albeit providing a summary only) may appear to suggest that the shooting broke out after 10.00 pm (although other radio logs refer to this announcement sooner, for instance serial entry 119 on the 40 CDO RM Log of 9 July 1972 at 21.35). Third, it is potentially significant that the shooting of a Catholic priest and a 13-year-old girl were particularly highlighted amongst the other statistics.

4.202 The shooting at Corry's Wood Yard is described at para 6a of the Brief, along with some other incidents, as follows:

“There were 34 incidents of shooting at Security Forces in which fire was returned on 13 occasions and initiated by [troops] once, and 6 hits were claimed. Sgt DURKIN was wounded in the leg in Monagh Rd and Lcpl [SM9] in the stomach in Mayo St. They are not listed. Around midnight some 250 rounds were fired at [troops] in the area of Corries Yard and 90 rounds were returned. Father NOEL FITZPATRICK died as a result of GSWs. The circumstance of his shooting is not known.”

4.203 There are two categories of potential records which were not available from the MoD in the course of this inquest which were suggested by the next of kin of the deceased to be significant by their absence: (i) ammunition control or armoury records, recording which soldiers had discharged rounds and needed them replaced; and (ii) records of any debriefs carried out in relation to the events at Corry's Yard or in Springhill/Westrock on 9-10 July 1972. I address below some of the evidence provided by military witnesses about these matters.

4.204 Amongst other materials disclosed, the MoD did provide the personnel files (known as 'P Files') of many of the relevant soldiers. The details contained in these were relatively sparse. They assisted with issues such as when a soldier enlisted and left the army; whether they were on the relevant tour; and certain other issues such as promotions and disciplinary matters. They did not, however, identify the soldier's platoon, much less what they were doing at any particular time, including even when they were on leave. Reference is made to them, as appropriate, elsewhere in this ruling; but they generally did not provide significant assistance.

'Difficulties Be Damned'

4.205 The inquest also had access to an interesting book relating to the King's Regiment, *'Difficulties Be Damned': The King's Regiment (8th · 63rd · 96th): A History of the City Regiment of Manchester and Liverpool* (Patrick Mileham, 2000, Fleur de Lys Publishing). The copyright in the book is that of the Regimental Council of the King's Regiment. It was produced at the time of the Regiment's 315th anniversary

with the cooperation of the regiment itself. The preface, written by the Colonel of the regiment, notes that it was faithfully researched and written by a prominent military author supported by a team from within the regiment. Further details of collaboration with the regiment are provided by the author himself in his foreword. The book appears to represent something of an official, or at least officially approved, history of the regiment.

4.206 1 Kings deployment in Belfast in the early years of the Troubles is dealt with in Chapter 17 of the book, 'Kuwait to Ballymurphy 1959-1979'. The chapter describes a happy and successful tour in Northern Ireland, based at Ballykinler Camp in County Down, from late 1964 to September 1968, during which community relations seemed to be strong and many in the battalion formed strong links with the local population. After the political and security situation had become a lot more volatile, 1 Kings was deployed to Belfast for a four-month tour in the autumn of 1970 until January 1971.

4.207 The book notes that it was a particularly difficult tour in West Belfast in 1972. The area is described as a "very violent place" with the British Army being the prime target of Provisional IRA violence in pursuit of its strategy to see the British Government lose military control and the political will to maintain the existing constitutional status. It goes on to give some details of significant events during the regiment's tour in Northern Ireland in summer 1972.

4.208 What I considered noteworthy from this source is what is *not* said about the events of 9-10 July 1972. The book records, for example, an IRA attack against B Company in Turf Lodge and Ballymurphy from 1-7 May 1972. The May incident is noted to have involved "intense fire from gunmen sheltering in houses, empty flats and even behind children" and is described as "a battle of fire and manoeuvre lasting several days".

4.209 As part of this discussion, there is reference to a "battle for Corry's Woodyard and two other incidents in the Ballymurphy, Westrock and Whiterock areas of Belfast". The "battle for Corry's Woodyard" which is referred to, however, does *not* appear to relate to the events of 9-10 July 1972 but, rather, the earlier incident commencing on 2 May 1972 which is discussed in Chapter 3 (see paras 3.41 to 3.47). Quoting from an unattributed source, the book describes on that occasion a platoon from 1 Kings stopping an invasion of the yard and preventing it from being burned down. There is mention of petrol bombs, blast bombs being thrown into the yard, and increasing sniper fire. A blast bomb blew a hole in the wall. In the following three days the wall was rebuilt and protected, during a very tense situation, when one soldier was shot. The platoon withdrew on 5 May. The relevant commanding officer of the platoon was said to have, through speaking to the local population, managed to withdraw successfully, with action against Corry's afterwards being "negligible".

4.210 The book mentions “another incident” when Kgn ‘Billy’ Eustace Hanley was guarding a Royal Engineer party removing barricade material in the Ballymurphy area and was killed by a single shot from a well-concealed sniper. It notes that, “On such occasions the sniper would disappear within seconds and nobody around ‘would have seen anything’ of him or his weapon”.

4.211 There is mention of the Official IRA ceasefire on 29 May 1972 and the Provisional IRA ceasefire on 26 June 1972. (Between these two events, a bomb in the Battalion Headquarters killed two soldiers.) The section of the book dealing with the particular timeframe with which this inquest is concerned is in the following terms:

“In late June another cease fire was agreed in an attempt to soften the political situation. The IRA merely used it to consolidate their position. It was broken without warning on 9 July when Sgt Durkin of B Company was severely wounded in one incident and L/Cpl [SM9] was shot in the back by a gunman firing off a burst of automatic fire before disappearing.

There then followed 10 days of fierce gun battles across Belfast. The May battles for the north end of the Ballymurphy estate were repeated. On 10 July alone there were 94 separate shooting incidents in Ballymurphy. 1 Kings by now consisted of its own 4 Companies with a further 5 under command: A Company 1st Duke of Wellington’s Regiment, B Company 1st King’s Own Royal Border Regiment and a battery from 7 Regiment Royal Horse Artillery. On 21 July, ‘Bloody Friday’, PIRA murdered 11 civilians and wounded a further 120 when 20 large bombs exploded in the centre of Belfast: within half an hour. Kingsmen were called upon to perform the grisly tasks of tidying up and collecting body parts to assist in identification.”

4.212 Given the attention devoted to the successful defence of Corry’s Wood Yard in the May 1972 attack, and only the passing reference to another incident in the Westrock area of Belfast, one might well have expected some more detail to be provided if, as the content of the ciphered statements suggests, a further successful defence of the wood yard against sustained attack occurred on 9 July 1972 as part of the breakdown in the IRA ceasefire, during which 1 Kings soldiers killed identified gunmen. Other than the passing reference to Westrock mentioned above (which I assume *may* relate to the events of 9 July and following) the circumstances giving rise to the present inquest are simply not mentioned, much less described or commended. However, the platoon which was involved in the May battle at Corry’s Wood Yard *and* the two other incidents (which seem to include the Westrock incident) is described as “the most tested and successful platoon”.

4.213 The relevant section contains the following in its concluding passages:

“The significant statistics for the Battalion’s tour were 1 NCO and 6 Kingsmen killed, 42 wounded, an estimated 7,000 rounds fired at the Battalion and 1,570 returned. Twelve IRA members were reported as killed by the republican press in the Battalion’s area in the same period, and 189 arrests were made, of whom 106 were charged. Fifty-one weapons, 10,594 rounds and 958 pounds of explosives were found. The Regiment mourned the passing of those who were killed, the more so when it is not appropriate even now to balance their sacrifice with the yet unknown details of the Army’s successful operations viewed from the PIRA side, still less to name names.”

Summary of the military oral evidence in general

4.214 I have referred above to some of the main documentary evidence provided by the MoD, consisting primarily of the ciphered statements and related RMP materials and the relevant radio logs. I turn now to address the written and oral evidence provided by witnesses who were former soldiers.

4.215 I have considered the totality of the evidence provided by military witnesses in this inquest, including each witness’s written and oral evidence. I have not summarized these in detail in respect of each and every former soldier who gave evidence for the simple reason that many of the military witnesses professed to know or remember nothing of the events of 9 July 1972. The clear majority averred that they were not there; or, at the very least, could not remember being there and therefore had no relevant evidence to give in relation to the actual events which are the subject of this inquest. With the exception of a very few, whose evidence is outlined in detail below, the military witnesses were unable to provide eyewitness evidence of who did what on the night of 9 July 1972 in the Springhill and Westrock areas.

4.216 One military witness (SM100) accepted firing a number of rounds that night at Corry’s Yard; but with no effect. Other than him, *no* military witness gave evidence to the effect that they had discharged their weapon at Corry’s Yard that night *or* that they had witnessed any other soldier do so. Aside from SM100, none of the few military witnesses who ultimately accepted they were or may have been present gave evidence of seeing any civilian (whether a gunman or not) being shot, whether by a soldier or anyone else. (SM16 could not recall firing his weapon that night but accepted the content of the witness debrief form stating that two SLR rounds were fired at gunmen in a different location, in the course of the SPD incident, at gunmen but with no hits recorded.) The direct testimony of military

witnesses in this inquest was therefore of very limited assistance in helping me to determine how each of the deceased came by their deaths.

4.217 Many military witnesses did give more general evidence about how C Company of 1 Kings operated at that time; about matters such as the use of sniper rifles, scopes and radios; about the colleagues whom they could remember and identify; and about the conditions under which they were operating at that time. That evidence has been considered and much of it has been referred to and reflected in relevant sections within this chapter or elsewhere in this ruling. The immediately following sections of this chapter deal with a number of topics of interest about which military witnesses were questioned; before I turn to the evidence of those who accepted, or were alleged by others, to have been present in Corry's Yard at the relevant time.

4.218 A lot of time was spent with military witnesses trying to piece together who they remembered serving with and what position they, and others, occupied at the time. On occasion this was enlightening but many military witnesses made the understandable point that the incidents were some 52 years ago at the time they were giving their evidence and they could not remember fine detail. Many of them had left the army very many years before and remained in limited contact, if any, with only a few former colleagues. Many had served on other tours in Northern Ireland and elsewhere and had difficulty – again, entirely understandably – recalling what rank they held at different stages and with whom they served, with various tours and duties shading into one another. (For example, SM348 could not even remember which platoon he had served in as he had moved between 7 and 9 Platoons). In addition, some memories conflicted as to a soldier's role or platoon. The result was that, in many instances, the picture became less clear, rather than more, as to which position various soldiers held at the relevant time or which soldier a witness was recalling.

4.219 Many military witnesses emphasized their own young age at the time of their deployment here; the very long hours worked; the constant fear of attack from paramilitaries; their feeling of being caught in the middle between two communities; and fierce attacks which, on occasion, they suffered at the hands of civilian combatants and terrorists. Some of these issues are addressed in further detail below and I have borne them all in mind in considering the evidence.

4.220 Many military witnesses also wished to address other incidents in which they had been involved when they had been fired upon during their tour in Northern Ireland. Sometimes this was to emphasise the dangerous nature of their duties generally or at Corry's Wood Yard in particular. Sometimes it was because they could not be sure whether or not the event they recalled was related to the events which are the subject of this inquest; but, frequently, it was to distinguish the only significant events they remembered (when they were fired upon and/or discharged their weapon) from the events in Springhill on 9 July 1972, i.e. to support their evidence that they were not present at the material time.

The dangerous nature of Corry's Yard

4.221 Although few military witnesses accepted that they had been present at Corry's Wood Yard on the evening or night of 9 July 1972, a considerable number of them were familiar with guard duty at Corry's Yard and/or had performed patrol duties in the area. Several had a recall of the May incident, discussed in Chapter 3, where Corry's had come under sustained attack. A lot of military witnesses sought to emphasise the dangerous nature of the duty at Corry's, such that soldiers posted there would be fearful of, and expecting, attack.

4.222 SM57, although he had never been at Corry's Yard (since he was in B Company) described it as a high-threat location which was attacked daily. SM108 mentioned that the area around the wood yard was particularly dangerous and the yard would be frequently attacked from the area around the church and Springhill Avenue. He referred to blast bombs, petrol bombs and nail bombs being thrown over the perimeter wall on a frequent basis. SM109 also recalled blast bombs and petrol bombs being thrown into the yard frequently. SM123 said Corry's Yard was regularly attacked and shot at in a 'willy nilly' fashion. SM349 said the main shed (which he called the 'Catalina Shed') was constantly shot at and had a lot of damage; and that the whole area around the shed and the walkways in between was very dangerous and constantly being attacked.

4.223 A number of soldiers gave examples of other occasions on which they had been present at Corry's Wood Yard and had been shot at. By way of example only, SM348 gave evidence, similar to that of SM349, that the walkways outside the sheds in the wood yard were very dangerous. On one occasion the OC's driver, SM388, had his beret shot off whilst he was on one of these walkways. Similarly, SM93 described being shot at whilst patrolling around the yard as he and other soldiers walked past the open pillars on the side of the main woodshed and then again as he entered the guardroom.

4.224 A number of soldiers also made the point that they were very young and/or scared. Again, by way of example only, SM100 said that he was only 19 at the time and the night when there was a gun battle going on and he was on his own guarding a hole in the wall (described below) was terrifying for him. SM79 also gave evidence about feeling unsafe and unsupported as a very young soldier.

Snipers and scopes

4.225 The issue of whether C Company and the relevant platoons had trained snipers is relevant because the case made by several civilians is that those responsible for the firing were so accurate that they must have been snipers. For my own part, I am not convinced this is the case, given the relatively short distance between the army positions inside the walls of Corry's Yard and the locations where, it appears, most of those killed and injured were shot (on or just off Westrock Drive or to the east of the Springhill Flats). The evidence of SM223, who

was sniper-trained, reinforced me in this view (although he also accepted that the lines of sight from Corry's were well-suited to a sniper rifle because of its height). In the ciphered statements, the distance between the OPs in the wood shed and the location of gunmen at or around Westrock Drive was generally estimated as between 50 to 75 yards (see the statements of Soldiers B and C). These approximations seem broadly accurate from the maps. SM13 estimated the distance from firing positions in Corry's yard toward Springhill at approximately 150 metres, probably less. The distance from the wood shed to the path or bank at Corrigan Park was estimated to be 200 yards in the statements of Soldiers E and F (although Soldier G estimated this from his position to be about 600 yards). I also heard evidence that a standard SLR would be 'zeroed' to a soldier at a range distance of around 100m. The evidence of Ms Kiernan, my ballistics expert, was that each individual would have zeroed their weapon to their own eyesight and you would normally zero in a weapon to a hundred metres (see para 8.142). Her evidence, which is discussed in Chapter 8, was also that the effective range of each discharged round from an SLR was approximately 600m with a suitable scope. As noted in Chapter 3, when attending the scene myself, I was struck by how closely situated the relevant positions were. Nonetheless, I accept that, if a soldier was a trained sniper, they are likely to be a more accurate marksman than a soldier who was not.

4.226 The other reason why this was a line of enquiry during the inquest was because a number of the ciphered soldiers (Soldiers B and G) referred to having sniperscopes fitted to their weapons. Soldier E also noted that Soldier A had a starlightscope. An understanding of the availability of these scopes might assist, therefore, with identifying those soldiers.

Snipers and sniper scopes

4.227 There was conflicting evidence on the question of whether sniper rifles would have been available or used on this tour in Northern Ireland. This is an area where I was concerned that military witnesses may have been confused as between different tours. Some soldiers were insistent that sniper rifles would not have been available or used. Some of the more senior officers appeared to take this view. Probably the majority of soldiers asked about this were unaware of sniper rifles. Some soldiers were aware that others may have been sniper trained but professed little or no knowledge of these matters. Others were quite prepared to accept that there were snipers – albeit few in number – in their platoon or company. I ultimately formed the view that there was a very small number of snipers per platoon; and that it was possible for a soldier to be deployed during the tour with a sniper rifle. That follows, to a large degree, from the evidence in an RMP witness debrief form relating to the SPD incident which specified that one of the soldiers there was armed with a sniper rifle; and to some radio log entries which suggest that snipers or sniper rifles were available. A number of the ciphered statements, of course, also refer to sniper scopes.

4.228 Independent of the issue of whether soldiers could be armed with a specific sniper rifle was the question of whether they might have some form of telescopic sight or optical scope attached to their weapon (which may be a standard SLR). I considered there may be some confusion in the terminology used in this whole area. 'Starlight' scopes were plainly used to assist with night vision. The evidence, discussed further below, is that there were large, static versions of starlight scopes which were kept in some OPs on tripods but also smaller versions (still bulky and heavy) which *could* be attached to an SLR or could be used independently as another night-vision aid. I was concerned that some witnesses may have confused the smaller starlight scopes with telescopic or optical sights (albeit these were smaller still); and that they may also have referred to a standard SLR with an optical sight attached as a sniper rifle when it was not, in fact, a specific sniper weapon. Similarly, it seems that some soldiers may have procured optical sights which they used which led others to think they were snipers when, in fact, they were not so designated. In any event, some relevant evidence on these matters is summarized below.

4.229 SM13 did not think that sniper scopes were in existence or issued to the company in 1972; although they did exist in later years. He added, however, that before a soldier could use this scope the weapon would have to be zeroed or it would be very inaccurate. If they were in use, they would be issued to selected soldiers with special training; but he could not remember if there had been snipers in the Northern Ireland context.

4.230 SM123 said he never saw a sniper rifle or scope during the 1972 tour and that they were not issued. He said the CSM, Jimmy Bennett, would not allow anything illegal to be fitted to a rifle and a soldier would be in big trouble if caught, "but I am not saying that it did not happen". He said there were starlight scopes used in 1972, so perhaps soldiers were mixing up the names. He said there were snipers in every platoon but perhaps only one per platoon, as it was very costly to send soldiers on courses. In oral evidence he was adamant that the ciphered statements referring to having sniper scopes were incorrect as there were no sniper rifles in 1 Kings Battalion. However, his evidence was that one could not use a sniper scope without a sniper rifle. He did say some people were using a 'red spot' which could be fixed onto an SLR.

4.231 SM16 did not think that 7 Platoon, which he commanded, would have snipers. There would be no one to occupy that role. Nor did he think that the other two platoons in C Company would have snipers, which he described as "highly unlikely". He also said there would not be sniper scopes, nor Lee Enfield rifles. When asked if any soldier would have any type of scope on their rifle he replied, "Absolutely not". In re-examination, Mr O'Rourke asked SM16 to comment on the picture (taken from the book *Difficulties be Damned*) appearing to show a scope fixed to a rifle held by a 1 Kings soldier in an OP within Corry's Yard during the 1972 tour. SM16 said that the photograph depicted a weapon which was neither an SLR nor an SMG. He said none of his soldiers ever had a weapon of that nature in their

possession; and that he had never seen the weapon before, even though he was an all-arms weapons instructor. He thought it was some form of special rifle designed to cater for a sniper scope, which was not an Enfield .303.

4.232 SM106 said he knew of the existence of sniper scopes but had never used one and did not know of any of his friends using them. He did not think they had any snipers in the regiment. SM108 said a sniper scope was not something that he used as he was not sniper-trained. He thought there would only have been one of these sights per platoon as it would have been rare. (SM79 had suggested that SM108 was trained as a sniper. SM108 said this was wrong. It is possible that SM79 had been referring to SM108's brother, who therefore shared the same name, SM223, who *was* trained as a sniper; and this appears to have been clarified later in his evidence.) SM114 did not recall any sniper scopes being used on patrols he was on; and said he was not sure if there were snipers on patrol at that time in 1972. SM92 also could not recall there being any snipers in his platoon. SM349 said he had never seen sniper scopes.

4.233 SM109 knew what sniper scopes were but did not know anyone in C Company with one. He did not think anyone was sniper-trained. He was later himself trained as a weapons instructor and was familiar with sniper scopes and weapons but, during the 1972 tour in Northern Ireland, did not believe any of his platoon or company would have used sniper scopes. SM407 also said he never saw anyone with a sniper scope and he did not think they fitted onto SLR rifles but could only be fitted onto .303 rifles. He had not seen one in Northern Ireland. SM117 could not remember soldiers being issued with scopes. He said he was not aware of there being snipers within his platoon or C Company; he did not think there were any to his knowledge.

4.234 SM100's evidence was that he did not recall 9 Platoon having a sniper but he may now have forgotten. He described it as an ordinary platoon. In his initial statement drafted by my investigator, he noted (commenting on Soldier G's account) that he was unaware of a sniper scope being used in 1972; and that he never saw anyone carrying a sniper rifle to be issued with a sniper scope. In oral evidence he said that snipers would be carrying a different rifle, a 303; and they all had SLRs. He did not recall ever seeing a sniper in Northern Ireland. He was not aware of a sniper at Corry's Yard on 9-10 July 1972.

4.235 SM57 was prepared to accept there may have been sniper rifles and indicated that one .303 rifle might be issued per platoon. SM10 said that the sniper scope was only issued to certain people and only 1-2 persons in the company were sniper trained. The sniper rifles would be old World War 2 guns, the Lee Enfield 303. Contrary to some others' evidence, he was sure each company would have had a couple of scopes or a sniper rifle, although he said he never saw another soldier using a sniper rifle. In answer to questions from Mr McTaggart, he expressed amazement that, in light of his evidence that only 1-2 persons in the company

would be sniper trained, two of the ciphered soldiers who were present in Corry's Yard had sniper scopes.

4.236 SM223, who was sniper-trained, thought that only a small number of soldiers per company, approximately four per company, were sniper-trained. However, he later indicated that this was just guesswork on his part and accepted that it could be more; he did not really have any idea. SM79 said that L/Cpl SM223, his section commander, was a sniper who carried a different weapon with a sniper scope; and that he was the only sniper in their platoon. He said he had never seen any other soldier, other than SM223, with a sniper rifle. On the other hand, SM278 (one of the RMP officers who gave evidence) said that soldiers being armed with sniper rifles was a "common thing" in Northern Ireland.

4.237 SM223 accepted that he carried such a rifle on the Northern Ireland tour. He said there was a more basic daylight sight associated with the sniper system, each of which would need to be zeroed to the particular soldier. He believed these were used in observation posts. He later said that he did not think the daylight sight could be fitted to the sniper rifle, but thought it could be fitted to the SLR. He did not recall having a sight fitted to the sniper rifle. As it would have had an effective sighting range up to 1,800 metres, he suggested that a scope would not be necessary for that range.

4.238 An entry in the Battalion Log at 11.33 on 10 July 1972 from C Company refers to "our sniper" watching a water tower where gunmen had been seen shortly before. An entry later that day, after sustained attacks against Corry's, noted that the Brigade would "reinforce Corry's and put snipers on SPD [tonight]". That suggests that snipers were available to the Battalion and C Company in particular. A later entry from C Company on 10 July 1972 refers to "1 x .303 fired at gman running across Community Centre in Corrigan Pk area", which is strong support for the availability and use of a sniper weapon.

4.239 The witness debrief forms for the RMP investigation into shooting incident 08553/2 - which investigated 12 rounds being fired by soldiers between 00.30 and 01.00 on 10 July 1972 related to the SPD incident - also refer to soldiers having certain sights or scopes. This shooting incident is said to have occurred when a number of gunmen in Corry's Wood Yard, Dunboyne Park and Springmartin Road fired on members of 1 Kings who were on duty in the wood yard. Soldiers were sent to deal with these gunmen. It is quite possible that some of the ciphered soldiers were sent to clear the relevant areas (see the discussion of the radio logs at paras 4.161, 4.178-4.179 and 4.181 above). Indeed, a number of the ciphered soldiers indicate that, after the events they describe in their statements, they went to patrol outlying areas of the wood shed and/or the SPD.

4.240 Kgn SM233, WOII SM16, Sgt Whitworth and Pte SM79 were all de-briefed in relation to this incident and standard form witness debrief forms completed. As to their weapons and equipment used:

- (i) SM233 described the nature of his duty as “stand by” (which may well relate to QRF duty). His weapon on the debrief form is described as a “sniper rifle 7.62 mm”; and he indicated that he used telescopic sights when shooting at street lights to create total darkness as gunmen were operating in the area.
- (ii) SM16 described the nature of his duty as “fighting patrol” (which again may well relate to QRF duty) and his task as being to gain access to the SPD and Laundry and flush out and take action against gunmen on the roof of the factory. His weapon is simply noted as an SLR; and he said he simply used normal weapon sights. He fired two rounds at gunmen breaking cover from the SPD Factory and running across the Springfield Road.
- (iii) Sgt Whitworth is noted as having an SLR. It is difficult to read the aiming aids used but it appears he may have had a “telescopic SLR sights” noted as an aiming aid. He appears to have searched the SPD building. He fired one shot when gunmen fired at the security forces’ location.
- (iv) SM79 also described himself as being on a “fighting patrol”. And was at the centre of Corry’s Yard commencing at 00.30. He was armed with an SLR and used a starlight scope when returning fire at a gunman firing at troops within the woodyard.

4.241 Thus, it seems that SM233 had a sniper rifle with a telescopic sight; Sgt Whitworth also had a telescopic sight on an SLR; and SM79 had a starlight scope.

4.242 In light of the entries referred to above in the radio logs and the content of the witness debrief forms in relation to the SPD incident (and that relating to SM233 in particular), as well as the evidence of SM79, SM223 and SM233 discussed below, I conclude that there were some snipers in C Company and that at least one sniper rifle was available for use at the relevant time. I am concerned, therefore, that some of the military evidence was so adamant that this could not be the case.

4.243 I also consider that there plainly some soldiers who were using optical sights at the time, as indicated in the photograph mentioned above and also discussed in Ms Kiernan’s evidence (see para 8.140). This may have been what some soldiers referred to as a ‘red dot’ scope or sight. This is again supported by the debrief forms in relation to the SPD incident and might well be what is meant by the references to ‘sniperscopes’ in the ciphered statements where the relevant soldier also indicates that they were armed with a standard SLR.

4.244 SM382 could not recall any soldier in his section having a starlight scope and had no recollection of any soldier in 1 Kings having one. He thought these were used for long distance shots and showed a red dot when you aimed. He said starlight scopes were not allowed and not issued, although when they were in Germany he could remember talk of them and thought a few soldiers may have

bought them privately. I think SM382's evidence in relation to this may have been an example of confusion between the night-scope and an optical scope for use in the day.

4.245 On one view, if soldiers in 1 Kings were using such optical scopes it may have been the case that these were not officially issued but, as suggested in some evidence, capable of being procured privately by soldiers on an unofficial basis. I think this may be unlikely, however, for a number of reasons. First, there was evidence that CSM Bennett would not tolerate any such equipment being used and was very strict about such matters. Second, a relatively senior officer, Sgt Whitworth, appears to have been in possession of such a sight during the SPD incident. Third, this was specifically declared to the RMP the following day when the witness debrief form in relation to that incident was completed. It may be that use of such unofficial equipment was in fact tolerated or that a blind eye was turned to it, at least in certain situations. However, there are other explanations. SM106 said he thought that his regiment was issued with a new type of scope but he did not know when and if everyone got them or what they were called. He recalled looking through the scope and there was a red arrow which could be lined up on target. He said the King's Regiment always got new equipment. This possibility might be supported by Ms Kiernan's evidence that the scope she saw in the photograph looked almost "experimental".

Starlight scopes

4.246 Again, there was some conflicting evidence on the availability or use of starlight scopes, although these appear to have been more readily recalled by military witnesses, both in their larger and smaller formats.

4.247 SM57 had no recollection of starlight scopes in 1972. SM104 said he did not know anything about specialist scopes. He had never seen or used a sniper scope; not did he know anything about starlight scopes, saying that he had never used one and did not know anyone else who had. SM113 could not recall any soldier in his section having a starlight scope. His understanding was that you had to be a trained sniper to be issued with a starlight scope; and he had no recollection of any soldier in his section being a trained sniper. SM108 also said that a starlight scope was not something that would have been used by normal soldiers on patrol as it was a specialized bit of kit that would be used at night by people trained on sniper rifles. SM92 said he had never seen starlight scopes, although was not saying they were not there. However, he had not seen one in Northern Ireland. SM109 said starlight scopes were a night scope. He had never used one and was not aware of any men in his section using one; nor was he aware of them being in OP points.

4.248 SM223 described a night-vision 'starlight scope' which was a larger device. SM106 said he did not think he had ever seen a starlight scope on a rifle as they were quite big. SM16 said a starlight scope was a night view but did not think it was ever used on a rifle. SM93 said he was not trained on the sniper rifle or any

kind of sniper scope or sight but recalled there was a sight called the 'starlight scope' which was kept in the sangars soldiers manned when on security duty, otherwise you could not see anything at night.

4.249 SM100 said that starlight scopes were issued for night vision and usually only for the towers. He said that quite often these were not actually used on the weapon because they were difficult to attach and were often used only for observation. In his statement drafted by my investigator, he said starlight scopes would generally be used in observation posts and handheld, not on the rifle (since, to place a scope on the rifle, you had to "half dismantle your gun" to get it on). SM10 said starlight scopes were not carried as they were only used on the odd occasion at night and were easily damaged. Contrary to some other soldiers' evidence, he said he was not aware of static starlight scopes, only those that fitted on your rifle. However, he said he did not see a starlight scope or know of any soldiers who had one.

4.250 SM345 (an RMP officer) understood starlight scopes to be used so that the soldier could see in the dark. It was looked through to locate whatever was being sought and then the weapon would be used to fire. He did not think that these were attached to weapons in 1972, as they could be later. At that point the technology was more primitive. He did not know who would have used them.

4.251 When asked about a starlight scope, SM114 said in his statement that the only scope he knew of was called a 'Twiggy scope', which was like a telescope on tripod and very bulky, which was used in the dark to check the area. There was one of these on the roof of C Company's base. He was aware that there were smaller scopes which fitted onto weapons but he would not have been issued with one of these. The section commanders (corporals) would usually have the scopes. He thought there was only one per section which went out at night.

4.252 SM349 said he only had the 'flick up' sight but, later in the tour, there were scopes issued for night-time patrols which he agreed were called 'starlight' scopes. However, only one or two persons had them and it was either corporals, sergeant majors or sergeants who would have been trained on them. He thought there would be two or three per platoon at most. SM407 said the only scope he remembered was the night scope which was kept in the OP at Corry's. He said some people within the company did not have smaller versions of this scope on their rifles but that he was not one of them. He appeared to recall one person with a starlight scope on an SLR and said this was not in 9 Platoon, so was likely to be in 7 or 8 Platoon. He said he never saw anyone with a telescope.

4.253 SM348 said the only scope he was aware of was the IWS, a night scope which *was* placed on your SLR. He rarely used it. He thought these were mainly used in sentry boxes and covert points. SM13 said the starlight scope was a night scope which was very early in its development and very large and heavy, describing it in oral evidence as a "great big lumbering telescope". He thought there were possibly

only five issued to the company but said that this may not be accurate. He said they were very unpopular because of their weight.

4.254 SM123 seemed to have a good recall of such matters. He said that there were starlight scopes used in 1972 and that they were first used in Northern Ireland in 1972. They were not plentiful; they were big and bulky and would get damaged easily. He only ever used a starlight scope on one occasion and found it very heavy. He said they were only issued to certain people for certain tasks or operations and specific soldiers would have been trained on them. A soldier could not just put it on their weapon and leave it there. He said in his statement it would be issued by the WO2, but in oral evidence that this would be by the CSM, and was mainly used in observation points as it was too heavy and bulky to carry on patrol. There were different sizes and there would be larger scopes on tripods for static points. SM123 said the early starlight scopes would have been affected by streetlights but this was resolved after 1972.

4.255 This issue, as one can see, is a further example of one where the evidence was inconsistent. However, I am satisfied that there were starlight scopes available for use by C Company in 1972. There were the larger versions which were static but also smaller versions which could be fitted onto a rifle or used independently. (The suggestion in Soldier E's statement that Soldier A handed him his starlight scope, which Soldier E then placed behind him, suggests to me that a smaller version was available to Soldier A which was not fixed on his rifle.) These were principally used in OPs but could be fixed to a rifle. The thrust of the evidence was that these were not available in great numbers; there would be few per company; and that they were likely to be issued to more senior soldiers (section commanders, corporals and lance corporals) and/or those who were sniper-trained.

Ammunition control

4.256 There was a variety of evidence about where firearms were stored, namely whether they remained with the soldier at all times or were stored in the armoury. A consistent thread in the evidence was that soldiers would retain their own SLR throughout the tour because such weapons would be 'zeroed in' to the individual soldier. Some witnesses believed that their weapon would remain with them at all times; or at least at all times during some types of duties. Others gave evidence that, when sleeping or resting, their SLR would be stored in the armoury. A variety of military witnesses gave evidence that officers did not usually carry rifles but just pistols; although there was also evidence to the effect that some officers preferred to carry an SLR.

4.257 Although there was some variation in the evidence as to how this was achieved, and whether or not (and if so how) written records were kept in relation to it, there was a strong sense throughout most of the military evidence that rounds discharged by a soldier whilst on duty would have to be accounted for back at base. This was independent of the question of giving an account to the RMP about shots

fired. It was a question of ammunition control. A soldier would need to explain why he needed more rounds to replenish his magazine of 20 rounds, with replacement rounds only being issued when a reason had been given for the use of the missing rounds.

4.258 For example, SM57 indicated that ammunition was issued by the Company Quarter Master Sergeant (CQMS) and every round had to be accounted for and replaced, although he did not know how the CQMS maintained the record. (Evidence available to the inquest suggested that the CQMS was a Colour Sergeant Hewitt who has been deceased for quite some time.) SM100 said that he had to fill out a statement for each round discharged, so that he could get them replaced. He said that there was an arms store on camp and these forms were submitted through the Colour Sergeant, who was in charge of what was issued. SM10 also said that, if you had to have rounds replaced, you went to the CQMS to be reissued with the rounds up to 20; but this would only happen after a report was made to the Ops Room to account for the missing rounds.

4.259 SM223's evidence was that a storeman issued the weapon and ammunition at the start of the duty and, upon return, the soldier cleaned and cleared the weapon and returned it to the storeman. The remaining rounds were checked and the weapons and ammunition were locked in the armoury overnight. He said that returning fire triggered a requirement to account for ammunition expenditure. He believed the storeman would have kept a written record, or log book, of ammunition transactions. His evidence was also that the sniper rifle would be kept in the armoury and would have to be signed in and out. SM349 also gave evidence that the guns were stored in the armoury and signed in and out; and that rounds were counted out and in, recalling there being a "little tray" for that purpose. He said it should be logged at the armoury if a soldier had discharged a round. SM92 thought that a soldier's firearm was signed in and out every day. He later gave evidence that he thought this information and information about ammunition control was kept in a book. SM79 gave evidence that soldiers slept with their weapon and kept them with them all the time. However, he agreed with other soldiers that, when a round was fired, a replacement would be provided by the armourer who would keep a record of what was used and who used it at the time when the round was replaced.

4.260 SM123's evidence was that a re-issue of rounds would be carried out by the CSM, Jimmy Bennett, who was particularly keen on security of ammunition and would check soldiers' ammunition weekly against batch numbers issued.

4.261 I was satisfied that spent rounds would have to be accounted for. On balance, I was also satisfied that there would, at one time, have been a written record of which soldiers had discharged rounds and when, which might have been a further evidential strand of assistance to the inquest if such records remained available. Their utility is hard to gauge in the absence of knowing what information would have been contained in such records; although I strongly suspect it is unlikely to have included any detailed explanation of the shots which resulted in

the rounds being spent. Such records are likely to have represented a further evidential line of enquiry available to the RMP. For instance, they might well have allowed the SIB to cross-check the accuracy of a soldier's account about the number of rounds he did, or did not, fire. However, in the absence of some suggestion that a ciphered soldier had been dishonest about this, it is perhaps unlikely that such records would have been sought or consulted.

4.262 In their evidence to this inquest, a number of soldiers made the point that they had never fired their weapon during this tour operationally (or, in some instances, ever). These included SM382, SM348, SM104, SM349, SM93, SM114, SM92, SM109, SM106, SM407 and SM79. If armoury or ammunition records had been available, it would at least have enabled me to ascertain whether these assertions were consistent or inconsistent with contemporaneous documentary records.

The availability of radios

4.263 Another topic explored with several military witnesses was that of the availability of radios with which they could contact Company HQ. The relevance of this issue was connected to the reliability and comprehensiveness of the radio logs discussed above. As I have already indicated, the absence of the logs from the company network is a major shortcoming in record retention on the part of the relevant authorities, which I consider to have hindered the coronial inquiry. The debate about the availability and ease of radio contact would have been much better informed with the benefit of those logs. Again, there was a variety of evidence on this issue but with a weighting towards sections being able to be in radio contact with Company HQ.

4.264 SM223 gave evidence that a QRF section would include a radio operator. SM17 said that sections would have a radio. A section would have a radio operator if the section commander did not have it. Likewise, SM114 gave evidence that a section would comprise a corporal, a lance corporal, a radio operator and six soldiers. SM57 initially said that, on patrol, he only carried a small personal radio but, on reflection, said that section commanders also had radios. Voice communication within short ranges was often sufficient.

4.265 SM117 could not remember a radio, except for the section commander; he said the section commander would have a radio. In answer to questions from Ms O'Reilly, he said these were hand-held radios, sometimes attached to the flap of a flak-jacket. He agreed they were small, light and hand-held. In answer to questions from Mr Aiken, SM117 said that, at Corry's, the section commander had a radio and the section 2IC had a radio, in case they got separated; so that, if a full section was present, there may be two radios. He did not recall the larger packman radios described by SM16 the previous day. SM92 was asked about the radio he had when present at SM9's shooting. He said he had a "normal small radio"; and he thought it was one which fitted into your pocket.

4.266 SM123, when asked how one would communicate from Corry's Yard to the main camp, said that they had radios; he was not sure if there was a phone at the yard. SM407 said there was a radio in the "main office" at Corry's and that the section corporal would call the section commander (the platoon sergeant) to inform him of any situation where help was required.

4.267 SM100 said that, at Corry's Yard, they had two Pye radios, one in the tower and one in the gatehouse; and that they also used a phone in the gatehouse. In answer to later questioning from Ms O'Reilly, he said that one of these was a mobile radio which would have been with SM10 (who was normally in the guardhouse). He gave evidence, however, that there were "a lot" of radios which came into the yard later on with the QRF, although only two with his section on guard duty. This evidence related specifically to the situation on 9 July 1972.

4.268 SM16 said that platoon commanders had radios but section commanders did not. His evidence was that there was only one radio per platoon. This would have been a backpack with an aerial close to the platoon commander. Once again, his evidence was out of step with a good deal of the other evidence I heard on this issue from military witnesses.

4.269 It seems highly likely that there was a radio in the fixed, elevated OP at the northwest corner of the yard. That was the evidence of a number of witnesses, including SM106 (who thought this connected back to the guardroom and they then had a way of contacting base); and SM113 (who said when he was fired at he would have reported this from his OP to the command centre at base). It also makes sense that, if the OP was designed to monitor activity in Ballymurphy, a means of communication back to Company HQ would be available in the event of any significant observations. However, Soldier D's statement indicates that at 22.00 he requested permission to fire at the gunmen, which was granted by his Company HQ. The most natural reading of this statement is that he was in radio contact with them. I also consider it likely that there was a radio in the guardroom there and/or a telephone by which contact could be made with Company HQ.

4.270 There was other evidence that in some locations a telephone would be available which might also be used for communication. SM207 (who acted as a watchkeeper for HQ Company on a rota) was asked about the use of telephones. He said that the radio would be used for the widest dissemination of information; but a telephone may be used if communicating security-sensitive information or information not needing immediate wider broadcast. Regardless of the source or means of transmission, significant information would be logged.

4.271 In summary, I believe there was ready means of communication between Corry's Yard and Company HQ so that significant developments could be radioed back and relayed timeously. Although neither the northwest OP nor the guardroom would have full visibility of what was occurring to the south of Corry's

or in the OP in the woodshed, it would be possible for those in the woodshed to get messages back to the OP tower or guardroom (as SM100 said had occurred on 9 July). However, I also consider it more likely than not on the basis of the evidence I heard that a QRF section deployed in the main wood shed would also have at least one radio with them by which they could make direct contact with C Company HQ. Not only is that consistent with a range of evidence I heard on the matter but it is also a matter of logic. If a quick reaction section was sent out to respond to an emergency or developing situation, it would be entirely rational to expect them to be in contact with Company HQ and others on the company network so that they could give and receive updates on the situation they had been sent out to address, could call for further reinforcements, and/or be directed to further situations requiring their assistance. To deploy such a section without effective communication would fly in the face of common sense. In those circumstances, the 'radio silence' to which I referred above from around 21.00 to 22.03 at Corry's Yard is even more difficult to explain; or to explain in a way which is consistent with the case made in the ciphered statements.

Pre-duty briefings

4.272 I was interested to understand the information which soldiers may have before embarking on a particular duty or task, including for instance the information which soldiers deploying to Corry's Yard may have about activities in the local community, local characters and intelligence relating to actual or suspected members of unlawful organisations. There was not a significant degree of evidence about this but some military witnesses did address the issue of pre-duty briefings.

4.273 SM100's evidence (in his statement drafted by my investigator) was that soldiers received a daily brief on their duties from the platoon sergeant and that, if they were on patrol duties, they received details of the area and "pictures of suspects in a book to look out for, for intelligence gathering purposes". Other soldiers also gave evidence in relation to briefings before duties, which appears to have occurred mostly (if not exclusively) in advance of patrol duty. SM108 recalled receiving briefs from the CSM and the Ops Officer, which would consist of sightings of terrorists or any terrorist activity that the soldiers had to be aware of. SM114 also mentioned received a brief from the section commander before patrol duty to cover the route taken and anything to look out for. The section commander's brief would come from the Ops Room.

4.274 SM10 gave evidence that he came to Northern Ireland earlier than other troops from his regiment and that he was involved with "a little sub-group", also described as a recce platoon, for around two months which went on patrols to try to gather intelligence. He said this was ultimately cancelled as it was decided that it was not very useful. The limited evidence before me on the issue appeared to suggest that the army's intelligence-gathering at this stage was somewhat rudimentary; but it is undoubtedly the case that they had some intelligence

capabilities and that there were dedicated intelligence officers whose role was to assist the army in its tasks.

4.275 SM348 gave evidence that, before each day's duty, a briefing was carried out by the Intelligence Officer and/or Captain SM13. The soldiers would be told what was going on in the area and would be shown terrorist suspect photographs (both UDA and IRA). They were told if they saw any of the suspects to note the details and report it back at base on their return. SM13 himself said that briefing in advance of duties did happen, usually with the OC and Intelligence Sergeant in a briefing room. He said the Intelligence Sergeant was different from the Regimental Intelligence Officer, the latter of whom was based at Company HQ. SM123, a Sergeant in 8 Platoon, said that on a regular basis he or Lt Filler attended the OC daily conference (which could be conducted by the 2IC depending on deployment) and then briefed his soldiers on their duties. He would show pictures of suspects and provide general military information. If it was a special operation then the platoon commander would carry out the briefing; and some other platoons may have had corporals do it.

4.276 SM207, the Regimental Intelligence Officer, gave evidence about intelligence collecting and (to a lesser extent) dissemination. He collated information to brief the Commanding Officer, Lt Col SM213. Intelligence mainly came from patrol reports and the RUC. He described battalion-level intelligence in 1972 as "limited" and could not recall significant intelligence produced during that tour. He said he had a small intelligence section of two or three soldiers. However, he confirmed that the battalion maintained a card index of persons of interest, which contained information inherited from prior units and also new intelligence. He built working relationships with the RUC and information was shared where this was mutually helpful. Long-term intelligence would be added to the Kardex system; and short-term information relayed to the Commanding Officer. Despite being the intelligence officer, RM207 had no recollection of investigating the fatalities of 9 July 1972, nor speaking to any soldiers involved. He emphasized the operational overload at the time, including multiple gun battles, continuous incoming fire, and significant threats to premises such as the wood yard. Thus, individual incidents, even fatal shootings, did not receive focused attention.

4.277 SM113 indicated that soldiers would have had prior intelligence when on observation duty. SM349 also said that if you were at Corry's Yard you would receive some briefings on high threat areas inside and outside the yard and anything else you would need to know. He thought Sgt Maj SM16 carried out the briefings. He remembered being shown different things on a projector and things to watch out for.

4.278 As a result of the above evidence, I formed the view that soldiers on duty in Corry's Yard would likely have an awareness of the identity of known terrorist suspects in the area and at least some other information gathered by the army which may be relevant to their duties, in terms of what to look out for and assessing

threat. Even if this information was shared mostly in the context of patrols of the TAOR, by July 1972, more than two months into the tour, C Company soldiers would likely have an awareness of these matters.

Debriefs

4.279 A further general topic addressed in the military evidence was the question of whether, when and how soldiers would be debriefed after a significant incident. A number of witnesses were questioned about debriefs which would or may have occurred after a duty was concluded. Again, there was a variety of evidence about this. The issue was covered in some detail with SM108, who had given evidence that he was a section commander. The general tenor of the evidence was that debriefs would happen with a section commander or commanders if something of note had occurred. It seemed that this was most common when soldiers had been on patrol duty and therefore may have picked up some intelligence or come into contact with civilians. Any debriefs seem likely to have occurred shortly after the soldiers returned to base with the Operations Officer. Information received thereby could be added to the radio logs or recorded in some way, if appropriate. SM108 considered that the Ops Officer would write down information during such a debrief, although the overall impression I gained was that this was a relatively informal process. No written briefing notes which might have been generated by such a process have been disclosed in the inquest. However, the clear impression I had was that any such notes were likely to be discardable and discarded once any significant information had been reported or logged in a more formal way. The most natural place for this would have been in the Ops Room log sheets.

4.280 SM13 similarly indicated that “if there were any incidents” they would be debriefed, although he considered that this would be to the Company Commander and Intelligence Sergeant. In oral evidence, he said this would be for serious incidents. Usually, however, the platoon commander would report back to the watchkeeper. If a record was to be kept, SM13 said he imagined it would probably be recorded in the log sheets in the Ops Room. The RMP would only be informed if something serious had occurred. As to a debriefing in relation to the events of 9 July 1972, SM13 said he doubted if he would have attended such a briefing as it would have involved the OC and any platoon commanders of the persons involved. If it was a serious incident, something would be recorded in written form to be passed up the chain.

The night itself

4.281 As I have already mentioned, many military witnesses – the vast majority of them – denied being in or at Corry’s Yard on the evening of 9 July 1972. In and of itself, this is not surprising, given that C Company had many duties to perform and one would expect only a small posting of soldiers to be on guard duty at Corry’s at any one time.

4.282 There was only direct evidence of a small number of identified soldiers being in or at Corry's Yard around the time material to this inquest. SM100, in terms, accepted being there; as did SM189. SM100 also asserted that SM10 was present (and SM10 accepted in evidence on balance that he was); and that SM117 was present. SM16 accepted that he was present but only after 23.15 hours. SM223 denied being there or, at least, said he was unsure; however, he was suggested as being present by SM189. SM233 also denied being present, or was at least unsure, but there is an HET note suggesting that he "kept head down" which may be considered to suggest presence. SM100 also thought that one other soldier may have been there initially (i.e. on guard duty) and mentioned SM106 and SM114 as possibilities in this regard.

4.283 Many other soldiers made the simple point that if they had been involved in an incident of the seriousness and severity of that which is described in the ciphered statements, they would remember this; but they did not.

4.284 In terms of others' potential presence:

- (a) SM57, who gave evidence on 7 February 2024, was a second lieutenant in 1 Kings. In 1972 he served in B Company, commanding 6 Platoon. He said he never entered Corry's Yard as it was run by C Company. He transported Sgt Durkin, his platoon sergeant, back to base after he was shot on 9 July and then conducted a follow-up operation. However, he did not enter the Springhill or Westrock areas.
- (b) SM17, who gave evidence on 7 and 8 February 2024, was the 9 Platoon Commander. He repeatedly said that he had no involvement whatsoever in the events at Corry's Wood Yard on 9-10 July 1972. His evidence was that he was either asleep at the time or otherwise off duty. He denied being in the wood yard; nor did he recall being in the Ops Room during the incident. He was convinced he would remember any active involvement he had if he had been present. Reading the ciphered statements did not revive or alter his recollection. He did not recall being interviewed by the RMP at any stage. He believed that 9 Platoon had provided the section of men for guard duty at Corry's on 9 July 1972; but it appeared to me (particularly in light of questioning from Mr Skelt) that this was only because this had been suggested to him by my investigator arising from the inquest team's own enquiries.
- (c) SM8, who gave brief evidence on 8 February 2024, was a second lieutenant commanding 3 Platoon, A Company, Duke of Wellington's Regiment (1 DWR). He described his company's strict adherence to its TAOR, which did not include Westrock, Springhill or Corry's Wood Yard. His evidence was that 1 DWR never performed duty in Corry's, nor provided a QRF to that location; they religiously stuck to their boundaries. He denied any involvement, presence or responsibility there. He described his own

movements around the time and being shot in his left calf through a 'pig' door on the morning of 10 July in the Westrock area (which somewhat contradicted his earlier indication that he was not in Westrock), after which he returned to Henry Taggart Hall. However, his evidence was that he never went to Corry's Yard during the 1972 tour; and he could not assist in relation to the events of this inquest.

- (d) SM382, who gave evidence on 9 February 2024, was a section commander in 7 Platoon, C Company. He was regularly in Corry's Wood Yard and provided helpful detail about its layout. He regularly came under fire there and gave an example in which SM10 was involved. However, he indicated that he never returned fire, partly as the gunman always disappeared immediately and partly because firing into a residential area would risk civilians. He was insistent that he had no recollection at all of any events at Corry's on 9 July 1972 and that he was not present. He indicated that the first time he heard of the deaths, including that of a priest and a young girl, was from the LIU in 2024. He could not assist with identifying any of the soldiers in the ciphered statements but said that he was not one of them.
- (e) SM348 also gave evidence on 9 February 2024. (I formed the view that he was most likely in 7 Platoon at the relevant time.) He was clear that he never discharged his weapon during the tour. He said he was not involved in any firing incident inside Corry's Yard and was not present during the events on 9 July. His knowledge was second-hand from talk at the base.
- (f) SM207, who gave evidence on 12 February 2024, was the Regimental Intelligence Officer who would have been in the Ops Room at Springfield Road RUC Station and was not present at the wood yard, although he did visit it a few days later. He said he had no knowledge of who may have been involved and was unable to recall any discussion at that time about the deaths.
- (g) SM113, who gave evidence on 14 February 2024, said he had no memory of 9 July 1972. He accepted that he was in the elevated OP at Corry's on 11 July 1972 and fired a round at a civilian sniper who had fired three rounds at the OP (having been reminded of this through RMP documentation in CCRIO file 08614/2) but otherwise he had not remembered it. He said this was the only occasion he discharged his weapon on that tour. He had no recollection of 9 July 1972, nor of the deaths which are the subject of the inquest. He could only assume that he was not on duty that night and was unable to recall any discussions about the deaths amongst soldiers. The first time he became aware of them was when he received correspondence from the LIU.
- (h) SM104 (a Kingsman within 9 Platoon) also gave evidence on 14 February 2024. He recounted an incident where he was fired upon in the sangar OP at Corry's Wood Yard. However, he said that 9 July 1972 meant nothing to

him. He did not remember being in the yard when there was any firing. He emphasized that he had never fired his rifle, nor been interviewed by the RMP. He did not know of anyone else who had been interviewed by them either. He said he first heard about the shooting at Springhill when he received his letter from the LIU.

- (i) SM209 was a Captain and Adjutant in 1 Kings during the relevant tour. He gave evidence on 15 February 2024. His post was office-based, acting as principal staff officer to Lt Col Davis. He had no operational duties and therefore was unlikely to have been involved in an incident such as this. He emphasized that he was not in Corry's Wood Yard at any time and there would have been no reason for him to be there consistent with his duties. He did not recall precisely where he would have been at the time but believed he would have been in the Battalion HQ at Springfield Road RUC Station. He said he did not become aware of the deaths on the night, nor does he remember becoming aware of them at the time, save for by means of a casual conversation in Hong Kong in 1974.
- (j) SM108 gave evidence on 19 February 2024. He was a corporal in 1972 but was unsure which platoon he was in, whether 7 Platoon (which he thought was more likely) or 8 Platoon. He was unsure of dates and sometimes got mixed up with other tours he had undertaken in Northern Ireland. He had undertaken duties at Corry's Yard; however, he did not recall any sustained gun battle there resembling that described in the ciphared statements. He did not recall precisely where he was on the night of 9 July 1972 but did not recall being fired upon in a gun battle. Such an exchange, and people being killed, would have stuck in his mind. Any time he was in the yard, there was "just the odd shot fired" at them from the estate. He did not recall another platoon being called to provide assistance while he was there. He was never interviewed by the RMP and only heard general talk about the incident much later. He said he had never discharged his weapon in Northern Ireland and had never shot anyone. He had read the ciphared statements and said he was not one of the ciphared soldiers.
- (k) SM13 gave evidence on 19 February 2024. At the relevant time he had been a Captain in C Company and was its 2IC, second to the OC Major John Mayes. He visited Corry's Yard often and would usually have called in most days to visit the men in the yard. However, he did not recall 9 July 1972, nor the breakdown of the IRA ceasefire. He did not know what duties he was on that night and said in his statement that he could have been in the Ops Room or on patrol. In oral evidence, he said that he did not patrol as he had responsibility for administration and was not in the "cycle". He did say that he had heard sometime that night that civilians had been shot but that was all he could remember.

- (l) SM123, who gave evidence on 20 February 2024, was a Sergeant in C Company, 8 Platoon. He had been in Corry's Yard on three occasions on fleeting visits to check on men. He could not remember what his duties were on 9 July 1972 but said he knew he was not in Corry's Yard as he was not involved in a gun battle and that would be something which he would definitely remember. He said none of 8 Platoon were involved in the incident as they would only have been present if he was present. He said he had never discharged his firearm on duty. He could remember two occasions on which he was interviewed by the RMP in Northern Ireland and gave details of both issues, in respect of which he later attended court, and neither related to this incident.
- (m) SM349 gave evidence on 21 February 2024. He was also in 8 Platoon. He recounted an incident at Corry's Yard when he and Kgn Gwilliam were fired upon by six men in balaclavas who were at a white car at a location marked at the end of Westrock Gardens (between Nos 43 and 10). This was reported to Sgt Maj SM16 but, by the time he got there, the shooting had stopped and they had gone. This was during a ceasefire, which finished after that, and there was no return fire from soldiers because it was a ceasefire. SM349 had never discharged his weapon at any time in Northern Ireland and was never interviewed by the RMP.
- (n) SM93, who gave evidence on 1 March 2024, said he was in 8 Platoon of C Company. He was a witness to the shooting of SM9 at Mayo Street on 9 July 1972. After that, he joined up with another section from C Company and carried on patrolling. He had no specific memory of being in Corry's Wood Yard on 9 July 1972 but believed that the timing of the shooting of SM9, and his then having recorded a statement about this shooting with the RMP back at base at 23.15 that same night, made it appear unlikely that he would have been present (with which I agree).
- (o) SM92 gave evidence on 4 March 2024. He was a Sergeant in C Company and was unsure which platoon he served in, although he thought it was 9 Platoon. He said he never discharged his weapon during this tour but recounted a number of occasions when he had come under fire. The third of these was the day the ceasefire broke and they came under fire at Springfield Road. He thought this was around 4.00 pm but it was the incident in which L/Cpl SM9 was wounded and he later accepted, from the records, that it must have been closer to 8.00 pm. Earlier that day, in the morning, he had been on patrol near Corry's Wood Yard when they encountered a group of teenagers gathering on both sides of the Springfield Road. The soldiers managed to calm the group down and persuaded them to move on. They then went to Corry's, just inside the gates, and were picked up to return to base. It was later that day that SM9 was wounded. SM92 had tried to block this out from his mind. After this occurred, he believed it was starting to get dark and they returned to camp and were off duty. He had no memory of

making a statement to the RMP about SM9's shooting but had been provided with a copy of it, signed by him, and timed as having been taken at 23.05 on 9 July 1972 at Springfield Parade. As with SM93, it seemed to me that his involvement in these events made it extremely unlikely that he was in Corry's Wood Yard at a relevant time. His evidence covered the events when he was there briefly that morning to be picked up and returned from patrol. He could not recall any shooting that evening when he returned to camp; and said that the first time he became aware of these deaths was when he received a letter from the LIU. He could not recall any discussions about the deaths within the regiment. He also said that, during this tour, he never carried out any duties at Corry's Timber Yard himself.

- (p) SM9 gave evidence on 5 March 2024. He was the soldier from 8 Platoon who was shot on 9 July 1972 shortly before 8.00 pm and then hospitalized. It is clear, therefore, that he was not at Corry's Yard at the relevant time. He did indicate that he did not remember SM10 being present in Mayo Street when he arrived or at any time he was there. He explained, referring to his original RMP statement of 15 July 1972 about the incident, that he and two other soldiers (one of whom was Sgt SM92) went with an RUC man to retrieve a vehicle which had been parked up at Mayo Street. When they arrived, there were no other military units in the area. He could not remember anything else after being shot. His evidence was very short and it was clear he could remember very little independently of the content of the written records to which he was referred.
- (q) SM95 also gave evidence on 5 March 2024. He was a Kingsman within 7 Platoon. He was a keen footballer and said he spent most of his time playing football, regularly representing the regiment, before being sent to Northern Ireland. He recalled guard duty in Corry's Yard. He recounted an incident on 15 June 1972 when his section was in the sleeping accommodation there and Kgn SM391 was seriously injured when L/Cpl SM325 accidentally discharged his weapon. He recalled this incident clearly but said it was the only incident he could recall whilst stationed in Corry's Yard in 1972. He recalled guard duty at Corry's Yard but said he was definitely not ever called there to respond to an incident as QRF. He just remembered being in an OP box in the yard. He said he knew nothing about the incident on 9 July 1972, nor the deaths. He only found out about these when contacted by the LIU. He could not recall any discussions about it at the time or since, and could only assume he was not on duty when it occurred.
- (r) SM109 gave evidence on 6 March 2024. In July 1972 he was a corporal in 7 Platoon. He recalled being on the advance party for the tour for the handover from the King's Own Scottish Borderers. He said he had never discharged his weapon in Northern Ireland but had been fired on at Corry's Yard and in Springhill Avenue, recounting an incident where SM33 was shot

in the arm by a Thompson machine gun. He said he knew he was not in Corry's Yard on 9 July 1972. He believed he was on a promotion course at Thiepval Barracks with SM348 for two weeks or, if not, on R&R. He said if he was involved in something where five people were killed he would remember it. He had no recollection of going to Corry's Yard when a gunfight was going on between soldiers in the yard and gunmen outside. When he returned to the base he remembered that there was some chat about people being killed (discussed further below). He had never seen the ciphered statements before or heard anything like what was mentioned in them. He did not know who any of the ciphered soldiers were. Having read the statements, he said he had not been in a gunfight like that at all in Northern Ireland and that that was something you would remember.

- (s) SM407, who gave evidence on 13 March 2024, was in 9 Platoon. He said he was shot at twice in Northern Ireland, once in Springhill Avenue and the other time in Corry's Yard. He said he was not involved in an incident on 9 July 1972. He had not been involved in any incidents in the yard. He would have remembered an incident like that so could only assume he was on duty elsewhere. The RMP never interviewed him in Northern Ireland. He was not one of the ciphered soldiers. He did not know about people being killed in Belfast until he returned to Weeton Barracks.
- (t) SM107 did not provide oral evidence to the inquest. There was no concrete suggestion by another soldier that he was present at Corry's Wood Yard on 9 July 1972 but it seems likely from other evidence that he was a member of 9 Platoon and in the same section as SM100, who did accept that he was on guard duty there at the relevant time with some members of his section. The evidence of SM106 and SM117 suggested that SM107 was a further member of that section. SM107 initially refused to engage with the inquest but belatedly instructed Devonshires who submitted an application for medical excusal on his behalf on 16 April 2024, along with a report from Prof Greenburg, Consultant Psychiatrist, citing severe clinical depression and moderately severe PTSD as well as a variety of other medical issues. On 22 April 2024 I determined that he should provide a statement before I would rule on the application. This was provided (unsigned but approved) on 25 April 2024. The application was opposed by the next of kin but, in the event, it was acceded to on 27 April 2024. I considered the statement provided on behalf of SM107. It indicated that SM107 had been a member of C Company, 9 Platoon but that, on this tour, he was "detached" from the company to a Recce Platoon supporting it, as a member of one of two four-man information-gathering teams called "the Squirrels". He remembered an occasion when all of C Company was deployed to go to Corry's Wood Yard to deal with an incident, which would have left no one to guard the company base, so the Squirrels were tasked to do so. He said he was sure this was the night that the ceasefire broke. He recounted his guard duty back at the base and said he remained in an OP tower from 9.00 or 10.00 pm until into the

afternoon of the next day. He could hear a lot of gunfire coming from the location of the wood yard and said it went all night. He denied that he was deployed to the scene of the incident being investigated and said he could not give any evidence as to what occurred. He could also not remember any discussions about the incident previously. He had previously been contacted by the MoD in 2016 in relation to the incident and had responded to its correspondence also indicating that he was in the Squirrel team at the relevant time; was not involved in the Springhill incident; did not provide a ciphred statement; and did not know who was involved.

SM100 (PIP)

4.285 SM100 gave a variety of evidence to the inquest. He was interviewed by my investigator in October 2023, in the presence of a Veterans Visiting Officer (VVO) and his solicitor from the CSO who was in attendance remotely. He had had an opportunity to receive legal advice and consider disclosed materials in advance of the interview; and he was also given a self-incrimination warning by my investigator before the interview commenced. (This is addressed in a witness statement from my investigator dated 30 January 2024). In the course of the interview SM100 answered without hesitation and confirmed that he had discharged his weapon on 9 July 1972, providing an explanation about this. He marked a map with the various locations. In the usual way, my investigator prepared a draft witness statement from her notes of the interview which was sent to SM100's solicitor by my own solicitor for signature. In the event, SM100 did not sign this. He later provided a statement drafted by his own solicitors, Devonshires. Ultimately, when giving oral evidence, he adopted *both* statements and was then questioned in relation to them (including some potential inconsistencies between them). Where I refer to his statement in this ruling, this is generally (unless otherwise specified) to the statement provided by his own solicitors. He gave oral evidence to the inquest on 26 February 2024.

4.286 SM100 was a private in C Company, 9 Platoon. He recalled being on guard duty. Although he could not be accurate about the date, the reference to a gun battle in his statement and having heard shortly afterwards of the killing of Fr Fitzpatrick pointed clearly to this being on the evening of 9 July 1972. (That was also clearly indicated in the original statement prepared on his behalf by my investigator, which he also adopted in evidence. Further, in his interview with the HET in January 2013, SM100 appears to have indicated that he was present in Corry's Yard on that night.) In answer to questions from Mr Mansfield in his oral evidence, he said that he had commenced guard duty that morning (of 9 July 1972) and was there all day until the following morning, 24 hours.

4.287 SM100 said there were four soldiers there initially. He thought this was Cpl SM10, SM117, himself and one other. (That other could have been SM106 or SM114; he did not know. SM10 had given evidence that he had been the best man at S100's wedding, so they were clearly well known to each other.) In oral evidence, SM100

said that there would be at least five soldiers for such guard duty, four Kingsmen and either a corporal or lance corporal. On this occasion, however, he could only recall four. He could not remember the time his duty commenced. He described the usual process as being that two soldiers would be in the guard room (up by the entrance to the yard), one in the tower and one patrolling the yard.

4.288 SM100 said that he and Cpl SM10 went to patrol the yard at the Westrock side. SM10 climbed up the wood pile to look over the wall. SM100 thought there had been reports of gunfire. SM100 said he did not hear SM10 but he thought that he had reported to command that there were gunmen in Westrock. He thought that is what SM10 told him (SM100) at the time. In the statement drafted by my investigator, SM100 had indicated that SM117 had come to the gatehouse and reported to them that shots were being fired into the yard from the houses in front of Corpus Christi Church. SM10 and he then walked down to the main shed. In that statement he said that, when they walked down, there was shooting from the area near Corpus Christi but he could not see the gunmen. He and SM10 then walked back to the gatehouse and SM10 was going to call the main camp. In oral evidence he confirmed that he and SM10 went out after SM117 had reported gunfire. SM10 said, "Let's go down and have a look".

4.289 In SM100's evidence there had been shooting "all day" at Corry's. He himself had heard occasional shots. The shooting he heard were general shots, now and then; single shots, but he heard two or three around the time he went with SM10. He thought they were coming from the direction of Corpus Christi Church. He was not sure why SM117 had reported the matter then, particularly.

4.290 SM100 said that there was a hole in the yard's boundary wall. His description of this hole and his actions in relation to it are described in more detail in Chapter 11. SM100 accepted that he was guarding the hole in the wall at around 10.00 pm. He said in oral evidence that going down to the shed must have been about half an hour before that, although he was not sure of timings.

4.291 However, he also said that he heard vehicles arriving at the yard, which he assumed was a QRF responding to SM10's call. He assumed that these were from 7 Platoon as (he said) they were the QRF. He was consistent on this in both statements. The QRF would usually have comprised about 10 men but, on this occasion, it could have been any number. SM100 could not say. He did not see any of them from his location. However, his evidence was that they came in and took up positions along the southern boundary on the woodpile. He assumed that was where they would be going in order to cover the risk posed by the gunmen in Westrock. There were lots of piles of wood between him and where the QRF soldiers were, blocking his vision. He estimated their positions to be roughly 75 yards away from him. He could hear them moving about.

4.292 SM100 also said he could see and hear that it was "kicking off". In oral evidence, he said this meant the gunfire was intensifying. He said this occurred

after the QRF arrived. He could hear incoming fire and outgoing fire; and said the incoming fire was a mixture of high and low velocity rounds. He said there were more shots coming towards the shed. He could see from the woodpile "flashes from the soldiers firing back", which confirmed where he had assumed them to be positioned. He also described the QRF rifles (in the statement drafted by my investigator) as "lighting up the roof of the shed". He thought the QRF was positioned on top of the piles of wood. He was not sure if SM10 was up there with them. He was not aware of this being a usual OP in the yard. In his statement, SM100 provided no times or timings in relation to any of these events. He said the shooting *into* the yard appeared to be coming from the direction of the Corpus Christi Church side. His memory was that many more rounds were coming *into* the yard than being returned. He estimated this as roughly three to one in ratio.

4.293 When asked in oral evidence by Mr O'Rourke what time the intense shooting was at, SM100 said he did not know. If he went in at 10.00 pm it was maybe around 11.00 pm. However, this was at the time he was guarding the hole in the wall. In answer to further questions from Mr O'Hare about the timing of the escalation in firing, he said he could not be sure but he *thought* it was around 11.00 pm. He said it was dark at the time. This was partly on the basis of his remembering seeing the ceiling light up. He thought that his own shooting at the hole in the wall occurred *before* the more intense shooting elsewhere. He described that incident (when he had fired) as being at twilight, as it was getting dark. (Bearing in mind the lighting conditions, with sunset at 9.58 pm, and the radio log entries described above, it seems to me likely that the incident at the hole in the wall may well have occurred around 10.00 pm and that the intense firing after that which SM100 recalls may have been the events recorded in the logs from around 22.24 to 22.35 and following.)

4.294 SM100 remained in his location guarding the hole in the wall throughout. He suspected the people from 7 Platoon may not even have known he was there and commented that they would have "had their hands full with what else was going on that night". He thought the Paratroop Regiment were brought in to take over the yard and give 1 Kings a rest, possibly in the afternoon of the following day. He thought this probably coincided with him leaving his position. In oral evidence he described leaving in a landrover with 4 or 5 soldiers in it. This did not include the QRF (whom he understood to have left earlier) but only members of 9 Platoon. After he left that day he was transferred to guard duty on Black Mountain for a couple of days.

4.295 I generally considered SM100's evidence to be believable. He was one of the few soldiers who, upon initial contact from my office, completed the relevant questionnaire to indicate that he had knowledge of the events in Corry's Yard on 9 July 1972. His version of events, from the brief summary provided in that questionnaire, through his interview with HET, each statement given and his oral evidence, was broadly consistent. Unlike others, he was prepared to name individuals he thought likely to be there and/or to have been involved in some way. When he was giving oral evidence, I formed the impression that he had a fairly good

level of recall about where soldiers served and other matters addressed in the military evidence which have been discussed above. He was seeking to be helpful to the inquest and was, where appropriate, cautious and precise about his evidence.

SM10

4.296 SM10 gave evidence on 22 February 2024. He said that he was in C Company but his position was that he was unsure of his platoon. He said he was the company 'runner' for the Company Sergeant Major and therefore would have been in the Company HQ as well as being attached to a platoon. He had previously been in 9 Platoon and accepted that other soldiers said that that was his platoon. (In his application for anonymity, he also advanced the position that he had been a lance corporal in 9 Platoon). SM10 said he was not a full corporal at this stage. His oral evidence was that he was a lance corporal throughout 1972. He accepted that, in that role, he could have been a section commander at times, depending on the availability of others.

4.297 In oral evidence, SM10 said he could have been attached to 7 or 9 Platoon, but definitely not 8 Platoon. On the basis of his evidence (particularly about not being under the command of SM16 whom the majority of military evidence suggested was commander of 7 Platoon), it seemed to me likely that SM10 was a member of 9 Platoon, although attached mostly to Company HQ at this point. There was, however, some competing evidence in relation to this from a number of military witnesses, rendering the picture somewhat unclear.

4.298 There was a lot of detail which SM10 said he could not remember. When he had been sent the initial questionnaire from the LIU, he did not answer any of the questions and merely returned it with the comment, "Fifty years ago next month. I can't remember yesterday. Good luck."

4.299 In his written statement, he said had been in Corry's Yard plenty of times but did not remember being there on 9 July 1972. When there, he said that he would normally be in the OP in the woodshed which was higher and behind. On 9 July 1972, he believed that he was in the area where SM9 was shot, as SM9 had relieved him on the Springfield Road and SM10 believed that SM9 had been shot a short while later. He therefore did not believe he could have been in Corry's Yard as he was walking back to base. Having looked at the radio logs, he knew he was in Corry's Yard on 10 July 1972. However, he did not recall being there the previous day and believed that he had not been, for the reason just stated. On 10 July he accepted that the radio logs showed him in Corry's Yard at around 12.25 when he saw three males, one with a firearm; and he fired one shot, striking Henry Flynn who lost two fingers. He said this was the only time he had fired a shot and actually hit anything.

4.300 When SM100's account was explained to him, SM10 said in his statement that he did not recall being the section commander; speaking to SM117 about gunfire

coming into the yard; calling in the QRF; nor detailing SM100 to guard a hole in the wall. He also said he was never interviewed by the RMP about anything, adding that the first he knew about people being killed in Springhill on 9 July 1972 was from the news. He could not recall when this was but he had heard that a priest had been killed. He denied being any of the ciphered soldiers and said he did not fire any shots. He later reiterated again that he had never been investigated by the RMP at any point.

4.301 There is a typed record of an interview between HET officers and SM10 dated 10 February 2014, but which appears to record the content of an interview conducted on 18 November 2011. It records that “lengthy discussion took place as to whether [SM10] was in Corries wood yard at the time of the army shootings” resulting in the deaths which are the subject of this inquest. It notes that SM10 “was still not clear whether he was there or has a recollection of the incident, explaining that it would only be the following day that soldiers would become aware of the fatalities”. It goes on, however: “The discussion concluded that [SM10] was in the wood yard during the evening of 9th July but not in the position of firing high up in the sheds.” The note also indicates that SM10 “described positioning his men high in the wood sheds overlooking into Westrock”, although it is unclear if this was referring to 9 July 1972 in particular. The HET note also says: “[SM10] was coy about revealing too much information. He clearly had clear recollections which he would not disclose.” It says that SM10 confirmed that, after the night in question, “it was discussed in his unit that a soldier called Felmingham was responsible for firing the shot, killing Fr Fitzpatrick”.

4.302 SM10 was asked about his HET interview when he was providing his initial statement, in particular an indication that the discussion concluded that he was in the wood yard on the evening of 9 July 1972 and a comment from the HET officers that he (SM10) was withholding information. As to this, he said, “The police are liars. The police were desperate when they came to see me...”.

4.303 Nonetheless, in oral evidence, SM10 accepted that he could have been at Corry’s Yard *later* on in the day when SM9 was shot; he did not know. At a further point in his oral evidence, SM10 did say that he was in Corry’s Yard “on a very frightening night when there was a lot of shooting going on, but I didn’t see the bodies”. Shortly afterwards, he said that he “might have been there” and, as two or three people that were there had said he was, “so obviously I must have been there”. He went on to give a further description of the events of the night. He said there was a lot of shouting and shooting. When asked where he was, he said he was “all over it at different times; making sure my men were under cover and that they could return fire if they were fired upon”, adding, “Presumably”. When asked who was in charge when that was happening, his response was: “Well, I haven’t a clue. I presume it was me. But I’m sure somebody will tell me.” He later indicated that he presumed he was there because that was “the most active night in the tour”. In answers to questions from Mr Mansfield, SM10 again accepted that he was in Corry’s Yard on the night which is relevant for this inquest. He also accepted that he

would have been in charge "if there was nobody else there". He referred on a number of occasions to being everywhere in the yard.

4.304 SM10 was asked about seeing injured persons or cars on 9 July 1972. He said he did not; and also that "you could not see the road from the front OP". SM10's evidence was also that he never fired his weapon. He further indicated that he was not QRF, although later in evidence indicated that he had been out with them a few times. He was adamant that he was not with the QRF on 9 July.

4.305 In the course of oral evidence, having indicated that he had been SM100's best man, he agreed that, if SM100 had given an account of his involvement he would believe it (if SM100 said it). On this basis he accepted that he was definitely at Corry's Yard on the relevant night. SM10 did not think that he had been interviewed by the RMP as he had not fired his weapon that night. He indicated that his memory of the night was non-existent, "except we all got out alive and there was hell to pay, there was shooting everywhere... we were being shot at from every angle...".

4.306 In the course of his oral evidence, when being asked about the positions of observation posts in Corry's wood shed, SM10 did talk about positioning men. This chimed with a statement in the HET record which indicated that SM10 "described positioning his men high in the wood sheds overlooking into Westrock". In answer to questions from Mr Mansfield, he described this process: positioning men so that they were safe, behind cover and looking out on to the different areas. He also described when men shouted at him, saying that they saw something, he would run over and look. When this happened, he usually saw nothing "because it had happened and gone and moved on". He repeated that he never saw any bodies. He did not recall seeing a single gunman firing any shots. In answer to questions from Mr O'Donoghue (principally about the HET interview) SM10 again appeared to confirm that he was there but did not know who fired and who did not. In answer to questions from Mr Aiken, SM10 reaffirmed that he did not return any fire personally "because I was too worried about my minions".

4.307 Asked again by Mr Mansfield whether he may have been attached to 7 Platoon from time to time, SM10 said that he did not know if he was just living with them or where he was with them; but he knew that he went out on a couple of duties with the commander of 7 Platoon, SM16. He said he did several OPs with SM16.

4.308 I formed a very unfavourable impression of SM10 as a witness. He was not helpful. In my assessment, this was not merely by virtue of lack or loss of memory, which I wholly accept can pose difficulties. Instead, I reached the conclusion from SM10's answers, attitude and demeanour that he had no real interest in assisting me with the coronial inquiry; and that he likely knew more than he was prepared to let on. Even in relation to simple questions such as what platoon he was attached to, he was in my view unduly difficult, even allowing for the fact that he may have served with a number of different platoons. At times during his evidence, his attitude

towards the process was poor and he was sarcastic. It was obvious that he was frustrated with the process. When counsel made a point to SM10 that no soldier had admitted to being any of the ciphered soldiers, he laughed in a reaction I found inappropriate in the context of these proceedings.

4.309 SM10 also, when referred to a photograph of the highest OP in Corry's wood shed, volunteered that this was 'Echo OP', a term used by Soldier E in the ciphered statements but of which a range of other military witnesses professed to be unaware. He later said that he got that from the statements or whatever he had read; he didn't know it was called Echo OP or, if he did, he had forgotten. I found that to lack credibility.

4.310 SM10 had initially indicated that he did not believe he could have been in Corry's Yard on the night in question because he had been elsewhere, having been relieved by SM9 who was then shot. In his evidence, SM9 had no recollection of SM10 being with him when he was shot; although SM10 had made the case not that he had been with SM9 at the time but that SM9 had just relieved him when he (SM9) was shot. On this basis, SM10 had mentioned the notion that SM9 had 'taken his bullet'. However, SM9 said that when they arrived in Mayo Street there were no other military units there. SM10's initial version also received no report from other soldiers who were with SM9 at the time, namely SM92 and SM93. I was sceptical about the veracity of SM10's initial explanation as to why he thought he was not, or could not have been, in Corry's Yard at the relevant time. That explanation rang even more hollow when, in the course of his oral evidence, SM10 ultimately accepted his presence in Corry's at the relevant time. Generally, I formed a similar view of SM10 as did the HET officers who had interviewed him. I also found his evidence that the shooting on the night of 9 July was the most active day of the tour difficult to reconcile with his earlier indications that he was not there or had no recollection of being there.

SM117

4.311 SM117 gave a very short written statement through his solicitors. He confirmed that he was in 9 Platoon of C Company, 1 Kings in 1972 and was on the relevant tour of duty in Northern Ireland. He only started in the army on 7 January 1972. He remembered coming to Northern Ireland on 19 May 1972 particularly because a friend of his, Kgn Eustace Hanley, was killed four days later on 23 May 1972. He confirmed that his usual roles would have required him to undertake a variety of tasks, including being in Corry's Yard to defend it against attack. He recalled that there was a lot of activity by terrorists in 1972. As to any recollections he had about 9 July 1972, whether he was present at Corry's Yard that day, whether he fired his weapon and (if so) the circumstances of any firing by him, he asserted his privilege against self-incrimination. Having heard submissions about how far the privilege could extend, I gave a short ruling in relation to this prior to SM117's oral evidence, which I then explained to him.

4.312 The nature and purpose of the privilege against self-incrimination, and rule 9 of the Coroners' Rules, was discussed in detail in Ruling No 9 in this inquest. The issue became what particular questions would (if answered) tend to incriminate a witness. I had indicated a provisional view in relation to military witnesses that they could be asked about, and required to answer, whether they were at Corry's Wood Yard on 9 July 1972. Mr Turkington's submission on behalf of SM117 was essentially that mere presence at that location was something which might attract a risk of criminal proceedings in respect of a relevant soldier and, therefore, could not be asked. On the other hand, Mr Mansfield on behalf of the next of kin sought to persuade me from my provisional view in the *other* direction, namely that, in the absence of any suggestion from the next of kin of joint enterprise in this case, a soldier could be asked about more than I had originally indicated, in respect of what he had or had not done in Corry's Yard, if he confirmed that he was indeed there. I concluded that these matters had to be addressed (and they therefore were addressed) on a question-by-question basis.

4.313 However, as a guiding principle, I considered it proper to adhere to the provisional and instinctive view which I had taken on the issue. It seemed to me, having considered the authorities to which I had been referred, that mere presence at the scene of a crime (assuming one were to be established) is not sufficient to give rise to criminal liability: the question is what the individual does if they happen to be at the scene where a crime is being committed. On the issue of being asked about one's presence at the Corry's premises, I took into account that these were very large in area, such that a soldier there could be far removed from the location of other soldiers present (even to the extent that they could not see or hear what other soldiers were doing); and also that the evidence was very far from clear as to how many soldiers were in the yard (so that I did not accept the submission that there was necessarily a very small pool of potential shooters).

4.314 The upshot of this was that I held that, in principle, that a military witness could properly be asked and should be required to answer a question about whether he was in Corry's Wood Yard on 9 July 1972 (and also, if he was there, why he had been sent there); but that, once it came to what, if anything, he did when he was in the yard, he should be afforded a wide leeway to rely on the privilege as to what he did when he was there, his actions and precise location, and so on, at the time. (In coming to that conclusion about being permitted to be asked about mere presence, I also took into account that SM100, who was also represented by the same legal team as SM117, had placed himself in the yard on that night, was not given a rule 9 warning about this, and indeed there had been no suggestion that he should have been given such a warning or that he was waiving his privilege in providing that information.)

4.315 In oral evidence, SM117 provided some further detail than he had done in his statement. He indicated that he would have been issued with an SLR rifle with the iron sights only. He said he was never issued with any type of scope. He could not remember whether other soldiers were issued with scopes; and did not know of any

snipers in his platoon or company. He was aware of the role of the QRF, which he described as being a section set aside to go out if anything untoward was going on to offer support, and said that he had been asked to perform that role on occasion. He could not remember how many times he had attended to protect Corry's Wood Yard prior to 9 July 1972. However, when going to Corry's, he said that seven soldiers would go (a section); and you would usually be with the same soldiers, although the commanding officer varied.

4.316 SM117 accepted that he knew SM100 well. He also knew SM10 but said that SM10 was *not* in his platoon (9 Platoon) in Belfast. SM117's evidence was that SM10 was attached to 7 Platoon but that he would sometimes operate in conjunction with SM117's section depending on the circumstances.

4.317 SM117 said he could not remember when he was in Corry's Yard. There were lots of occasions when things went on there. His evidence was also that he did not hear any discussion amongst soldiers about something serious having happened there on 9 July 1972. He said it was normal for there to be talk amongst the soldiers when something significant happened which is why he did not "understand why nothing was said". He did, however, accept that he was likely to have been with SM100, who was in his section. He recalled one occasion when the QRF was summoned to Corry's Yard when petrol bombs were thrown into the yard and "they tried to burn us out". He did not remember seeing the QRF but "they could have been anywhere in the yard." He had no idea whether shots were fired at or by them, although said he was not saying the QRF did not. (It was unclear whether this referred to 9 July 1972 or another occasion.)

4.318 When asked directly whether he was in Corry's Yard on duty on 9 July 1972 at any stage, SM117 said that he honestly could not remember. He said all the days melded into one. He did remember an occasion being in the yard and being fired upon and reporting it after the incident had quietened down. He did not remember the elements of SM100's account involving him. He did recall gun battles that involved the yard being fired on and soldiers firing out of the yard. When asked about more of the detail of those incidents (such as the number of shots fired by the army, whether he saw the QRF or soldiers firing their weapons, and whether he discharged his own weapon) he asserted his privilege against self-incrimination and declined to answer. The same was the case when he was asked about SM100's view that he (SM117) had been present; and whether he had been questioned by the RMP.

4.319 SM100's evidence was put to SM117 in some detail, which had been to the effect that SM117 came into the guardroom on 9 July reporting that there had been shooting. SM117 said that SM100 must have a better memory than him, because he could honestly not remember that. When asked if it might have happened, he responded that he did not know.

4.320 SM117 indicated that he had read the ciphered statements but, when specifically asked if he made any of those statements, again relied on his privilege

against self-incrimination and declined to answer. He said he had not ever heard any rumours of Sgt Doherty being involved, nor about the involvement of SM16.

SM106

4.321 SM106 was mentioned by SM100 as also possibly having been at Corry's Yard initially on the night of 9 July 1972. SM106 gave evidence on 13 February 2024. He was in 9 Platoon at that time. He had undertaken a previous tour in 1971 and emphasized that some of his memories from the two tours were mixed up. SM106's evidence was that he never fired his weapon in Northern Ireland, nor shot at anyone.

4.322 SM106 believed that he had only been in Corry's Yard two or three times during 1972. He emphasized that guard duty there occurred at night only. He thought there were at least 12 soldiers present each night, sometimes more, plus a corporal supervising. He provided some detail about the layout of Corry's Yard and the observation posts there. He described the fixed OP tower constructed with scaffolding, accessed by a ladder. It contained a large, tripod-mounted starlight scope which was only used at night. His evidence, consistent with others, was that only one soldier at a time was normally in that OP. He said each would hand over the radio to the next.

4.323 SM106 recalled one or two further OPs in the main shed positioned on piles of timber, requiring soldiers to crawl along the stacks. These looked out over the Westrock/Whiterock area and fire could only be returned in that direction. These were frequently moved because workers allegedly placed indicator poles with arrows to betray the OP positions to gunmen. He remembered having carried out OP duties in the main shed on timber stacks once or twice and in the fixed tower OP (more often). His evidence was that a person in the OP in the shed would have a radio, which could contact the base inside Corry's.

4.324 SM106 said that he was shot at while in Corry's Yard but he emphasized that he never returned fire and did not see who had fired at them. He never saw any soldier firing at gunmen. He mentioned that soldiers in the yard had previously been injured by gunfire there and recalled having seen blood in the guardroom. He also remembered glass bottles and petrol bombs being thrown, recalling one incident where bottles were thrown to provoke a response with a gunman then firing from the area of the church.

4.325 SM106's evidence was consistently that he had never seen soldiers fire weapons; he did not know who fired shots in the wood yard on 9 July 1972; and that he did not even know that anyone had fired their weapon because the noise and confusion meant that shots would not be audible. He had no recollection of an incident where he and other named soldiers (SM10, SM107 and SM114) were all together during a serious event; nor did he recall an incident where assistance came in from another platoon. He repeatedly stressed that if a gun battle had occurred (such as described in the ciphered statements) he would have remembered it. In

fact, he could not remember where he was on 9 July 1972 but did not recall being in Corry's Yard that night or any discussion or debriefing in relation to it. He maintained that his experience in Corry's Yard related to more minor disturbances and no large-scale events or major gun battles, which he would have remembered. He was not interviewed by the RMP in Northern Ireland and did not know of anyone else being interviewed. He said that the first he heard that five people had been shot and killed at Springhill was when he received the letter from the LIU.

4.326 I found some aspects of SM106's evidence equivocal in terms of his presence at the wood yard on 9 July 1972. His basic position was that he was not involved in an event as described in the ciphered statements. However, he also made comments to the effect that he could not remember and could have been at an incident where another group had been called to assist (he could have been in an OP and would not have known).

4.327 SM106, like others, struggled to identify colleagues or recall who served in which section or platoon. However, he remembered SM10 as his section corporal; and remembered SM100, SM107 and SM114 as soldiers he often worked with. He did not remember SM117. He confirmed in the course of his evidence that memory loss due to illness affects him.

SM114

4.328 SM114 gave evidence on 4 March 2024. He was in 9 Platoon. I have described some aspects of his evidence on general issues, including his recollections about the wood yard generally, above. In terms of duties in Corry's Wood Yard, he made the point that he was a relatively new soldier (who had only joined the military in September 1971) and, therefore, was not habitually trusted with difficult duties. He would usually be assigned guard duties at the C Company base on the roof or at Black Mountain TV mast. He said that, on a couple of occasions, he did guard duty inside Corry's Yard. He would also have been tasked to escort the food to outlying patrol bases, such as Corry's Yard.

4.329 SM114 said that he did guard duty at Corry's yard on two occasions when he first got to Northern Ireland and on each occasion it was quiet. He said he was not aware of any observation posts within the yard (and had never heard of a post called 'Observation Post Echo'). He was not aware of any incursions into the yard by paramilitaries; and he had never been involved in any incidents at the yard. He did not recall a time when he was on duty with SM100 at Corry's Yard, nor a hole in the wall which SM100 had to guard. In oral evidence he said he was definitely not on duty at Corry's Yard on 9 July 1972. He had read the logs and a lot went on that night which would have stuck in his mind if he had been there.

4.330 He was aware that Westrock was a dangerous area and the older soldiers would not want to take the "newbies" there on patrol. He could remember one particular day when a lot of buses were hijacked but, on that occasion, he was in the

OP on top of the company base at the Old Bakery. He denied being a member of the QRF and said he was not sure there was a QRF at the time. He also said the RMP never interviewed him; and that he was not one of the ciphered soldiers. As already noted, his evidence was also that he had never fired his weapon at anyone during his whole military service (which was from 1971 to 1977). He said he did not know about the incident in Springhill, nor the death of five civilians, until he got the letter from the LIU. He did not think this was unusual as the older soldiers did not speak to junior soldiers and “usually stuck us in posts with little to no trouble”.

4.331 SM114 was asked about a variety of other soldiers. He could remember a few who were billeted with him in a caravan (including SM117 and SM100) and thought he may have gone on patrol with SM117 and SM113; but could not remember many other soldiers from Northern Ireland at all. He could remember, or place, many more from his tour in Hong Kong but was not sure whether he knew them in Northern Ireland or whether they were there. (This may have been because, as he emphasized in his evidence, the ‘new’ soldiers on the Northern Ireland tour were somewhat isolated).

4.332 By and large, I thought SM114 gave his evidence in a straightforward and unguarded manner. I believed his evidence that he was not in Corry’s Yard on the night relevant to the deaths under investigation in this inquest.

SM16 (PIP)

4.333 SM16 gave evidence on 29 February 2024. He had provided a written statement in advance through Devonshires. He began by saying that he was concerned about the passage of so much time limiting his ability to give a detailed account. By 1972 he had been in the army for 21 years and was a WO2 Platoon Commander of 7 Platoon, C Company, 1 Kings. He provided helpful written evidence of the company and platoon structure. In 1972, SM16 was the same rank as CSM Bennett but Mr Bennett was the Company Sergeant Major, whereas SM16 was only responsible for 7 Platoon. Beneath him was the platoon sergeant and then three sections each headed by a corporal or lance corporal.

4.334 SM16 had seen an unredacted copy of the witness de-brief form relating to him and the SPD incident. All of the personal details in the form relating to him were correct and he was sure that he had signed it. It was dated 10 July 1972 at 15.35 hours. He could not remember speaking to the RMP, nor the shooting incident described in the form. However, he was sure that he had signed it and would not have done so unless its contents were true and accurate, particularly given how close in time it was to the events to which it related. He noted that he came on duty at 23.15 hours and said he would not have put that on the form if he had in fact come on duty earlier.

4.335 Asked in oral evidence where the phrase “fighting patrol” on the debrief form had come from, SM16 said he had no idea and that, to his knowledge, he had not

provided that. He was, however, familiar with the phrase. When asked about the 'time duty commenced' section of the form, SM16 said that that was the time he was brought in. He could have been doing anything beforehand. He did not know who had provided it. He was not able to answer whether this referred to the time when he came to the yard or to the SPD (although, elsewhere in his evidence, relied on this as the time when he believed he would have come to the yard).

4.336 Considering the radio logs, SM16 thought the description in the debrief form of gunmen in the SPD/Laundry just after midnight may well refer to serial 135 at 00.15 on 10 July in the Battalion Log ("2 gmen in laundry firing into Dunboyne Pk area and also at ptl"); and the entries in the Brigade Log at 00.04 and 00.14 (including "2 gunmen in Laundry area S of Springfield Rd opp Brittons Pde" and "2 gunmen seen in area Laundry in area South of Springfield opp Dunboyne Pk. They are firing at our ptls in SPD factory and North into Dunboyne Pk").

4.337 SM16 said he could not remember being in the yard at the time the shooting of the civilians happened, which he understood was in the period before he was stated to have come on duty in the witness debrief form. He had also carefully looked at the statements of the ciphered soldiers and said he was definitely not one of those. He said in his statement that he was absolutely sure that if he had been present for what had taken place (as described in the ciphered statements and Battalion Log) he would have remembered it. Also, if he had been present, it would have been his role to run around the yard between the various locations of the soldiers, receiving information and giving orders. He would have been "right in the middle" of what was taking place and was sure he could have recalled being present. SM16 also indicated that he could not identify any of the ciphered soldiers from their statements; this was "just not possible".

4.338 SM16 said he could not understand why the RMP did not take a statement from the soldier who was in charge of the individual ciphered soldiers. He said this would have been a very obvious thing to do. There must have been someone present in the yard in charge of the soldiers and he assumed that person would have been known to the RMP at the time. He found this very frustrating and thought that it would have "cleared up an awful lot of confusion". He also said that the RMP did not ever suggest to him that 7 Platoon was involved in the incident. If they had have done, he would have remembered this.

4.339 SM16 referred to his HET interview, which he thought was either in 2012 or 2014. He could not recall the detail of the interview but said that he did not agree that he had confirmed that he was present in the yard at the time of the incident. He said that may have been the police officer's view of the incident. He said he was not shown any records at that time and that he now believes that, at the time of his HET interview, he was confusing the 9 July 1972 incident with an earlier incident which happened in May. He referred to the fact that the HET notes also made reference to a burning bus being driven at the yard (which was a feature of the May incident). He also took specific issue with the reference in the HET note as follows: "identify

the fire and shoot to kill". He said in his statement to the inquest that this was nonsense and he would not have said that. He made the point that he had not seen the notes of the HET interview at the time and, had he done so, he would have objected to this phrase.

4.340 SM16 provided considerable detail about the incident in May 1972 (which has already been touched upon in Chapter 3). A large mob had gathered at the yard and 7 Platoon was involved in dealing with it. The mob was very antagonistic. The soldiers entered the yard surreptitiously and SM16 dispersed the platoon amongst the timber to command all aspects of the area. He ran between different soldiers who were up on the wood piles observing. The mob was at the south wall of the wood yard and the situation then erupted, with petrol and blast bombs being thrown into the yard. The mob then dispersed into side streets; cars started arriving; and the firing then started. He understood the gunmen had probably arrived at the scene in the cars and felt it was organised. A blast bomb went off next to SM16 and blew him off his feet. Later on, a hijacked bus was set on fire and driven against the outside of the yard. SM16 left the yard, got into the bus and drove it away. All of this was happening whilst there was heavy fire incoming to the yard, which sustained substantial damage. At least one person was shot that night. Towards the end of the incident, civilians came out and congregated on Westrock Drive at the 'circle' area. SM16 went out of the yard and spoke to civilians and their representatives, which seemed to bring an end to the incident. He described the attack as terrifying. Oddly, in a later answer to Mr Aiken, SM16 said he had no memory of OPs in the wood shed at Corry's, which I found inconsistent with his memory of the May 1972 incident.

4.341 In oral evidence, SM16 said that he could remember the events from May 1972 clearly. He could not recall 9 July with the same clarity. When asked why, he said this was because he was not directly involved; nor did he believe that his platoon was involved in the early part of the confrontation. He described his memory of the events of 9-10 July 1972 as "extremely sketchy". He did not recall discharging his firearm at all on those dates; but accepted the content of the debrief form. He thought it highly unlikely that any of his section had arrived before him. He was adamant in oral evidence that, when he arrived, he would have gone in with his platoon in its entirety. When pressed on this - particularly by reference to SM233's SPD debrief form which referred to him commencing duty at 22.00 - SM16 accepted that anything was possible; but he nonetheless doubted that 7 Platoon soldiers would have arrived earlier than he did. He maintained that he took his platoon in its entirety when he came on duty. He was dismissive on several occasions of the possibility of 7 Platoon soldiers being there in advance of him.

4.342 SM16 said he could not recall any informal discussions after the events of 9 July 1972. He could not remember now the details of what he knew and when about people being killed. He was sure that they would have learned of at least some of what had happened but he could not now say when or what he knew.

4.343 SM16's evidence was that there would have been some form of debrief with the company commander after the incident. That was the usual practice. He could not now recall this; but it would have involved the company commander asking him, and anyone else involved, questions. He accepted that he was involved to a degree because, from the witness debrief form, he was there from 23.15 on 9 July and the trouble continued into the early hours of 10 July. The debrief would just involve the company commander and the platoon commanders, not the men. In oral evidence, he said it would be the following morning. The 2IC would possibly be there also and, more than likely, the CSM. He said this would be very informal: a cup of coffee, cigarettes and a chat. Nonetheless, in his written statement SM16 indicated that he wanted a check to be made of military records to see if there was a written record of the debrief. He said he did not know at that time that a priest or children had been shot.

4.344 Despite saying that he was not involved in the incident itself, SM16 said he remained of the view expressed to the HET that none of his men would have intentionally fired at either a priest or a young girl. He also maintained that none of his men would have fired at someone they did not think posed a risk to their lives.

4.345 In answer to questions from me, SM16 accepted that it was possible that the time of 23.15 on the SPD debrief form only referred to the specific duty being undertaken in the SPD Factory and that he could have been on duty before that. He could not say; because he could not remember what he was doing before that (although his evidence was that he could also not really remember what he was doing *after* 23.15 either).

4.346 SM16 was adamant that he was not familiar with the terminology of "Quick Reaction". At one point, in answer to questions from Mr Mansfield, SM16 said he doubted whether C Company was involved at all because of the phraseology used in the ciphered statements and references to sniperscopes and "shoot to kill", which he said was totally alien to the way he operated. On a number of occasions, when portions of the ciphered statements were being put to SM16 for comment or response, he said he did not know whether the relevant passage was "fact or fiction". In particular, SM16 indicated that he had never seen an SLR fitted with a sniperscope in Northern Ireland in 1972, notwithstanding that a number of the ciphered soldiers mentioned such a scope.

4.347 I found several aspects of SM16's evidence strange when set against other evidence received in the course of the inquest. In particular, he was dogged in his insistence that the platoon would operate as a whole unit, rather than sections; that there was no regular guard duty at Corry's Yard; and that he did not recognize the notion of guard duty generally, nor the reference to QRF duties. Some of these matters were routinely accepted by a wide range of other military witnesses. In light of the other evidence provided by military witnesses, the clearly stretched nature of the resources available to C Company at the time, and (in particular) the references in the radio logs to a "sub-unit" being sent to clear Corry's and/or the SPD, I did not

find SM16's insistence that he would have arrived and acted only with his full platoon to be credible.

4.348 SM16 was clearly an intelligent witness but frequently gave his evidence in a combative and evasive manner. At times I wondered whether he was seeking to obscure matters – or make it more difficult for the inquest proceedings to determine which soldiers had acted in Corry's Yard on 9 July 1972 – rather than clarify them. Some representatives of the next of kin seized on his rhetorical question as to whether the content of some of the ciphered statements were “fact or fiction” as some form of concession that the statements, or portions of them, were wholly fabricated. I do not consider SM16 was seeking to suggest this. However, his clear disavowal of a range of matters set out in the ciphered statements, several of which I consider (as discussed further in Chapter 12) likely to have been provided by members of 7 Platoon, did little to reassure me as to the reliability of those statements.

4.349 As to the question of whether or not SM16 was in or at Corry's Wood Yard earlier than 23.15 on 9 July, I found SM16's explanation of the notes made by the HET officers to be lacking in credibility. He contended that they had not made clear to him that they were discussing an incident in relation to 9 July 1972 in which there were five deaths. I find that very hard to understand or accept. That was the whole point of this HET investigation. SM16 also said that, to his knowledge, no one had died in the incident in May which he was discussing with them (which *he* felt was the more significant event). I consider it would have been clear to SM16 that the HET officers were interested in the events which are the subject matter of this inquest; and that, if they were in fact discussing the May 1972 incident, there would have been no need for detailed discussion and deliberation about whether or not SM16 had been in attendance (because he knew that he had been and remembered this). At the same time, an email from a police officer within HET of 6 June 2012, albeit it not the interviewing officer, states that, “We met SM16 who believed he was there but unfortunately he was getting the incident mixed up with one removing a burning bus.”

4.350 Another odd feature was that SM16 agreed that he had been at or near the scene of Corry's from 23.15 onwards but, notwithstanding the evidence from the radio logs and elsewhere that there was a lot of shooting *after* that time, he did not have any recollection of this.

SM79 (PIP)

4.351 SM79 gave evidence on 12 April 2024. He had provided three statements through his solicitors, each of which he adopted in his oral evidence. He was in C Company, 7 Platoon. He left the army in 1975.

4.352 SM79 emphasised that the events were a very long time ago and that there had been a lot of activity in Belfast around that time. He could not now recall what

he was doing on any particular day. He said that, in 1972, he was frequently in Corry's Yard. It was a focus of a lot of attacks and soldiers were there a lot. He recalled the main task was to guard the premises. He could not remember SM16 being with him on those occasions.

4.353 SM79 recalled being provided with the terms of engagement on the yellow card, which he kept with him all the time. He could not now recall the detail but said that back then he would have known the content of the card very well.

4.354 SM79 was referred to a witness debrief form from the SPD incident (reference 08553/2) which suggested that he had been at Corry's Yard from about 00.30 hours on 10 July 1972 and shot one round at a person. He said he did not think that this document was accurate for a number of reasons. First, he said he had never fired his weapon in Northern Ireland and that he was absolutely sure of that. There was one occasion when he nearly fired his weapon but then did not, which he later described. He also said that the form was not in his handwriting (which I do not consider to be a significant point since other evidence suggested the form would be filled in by an RMP officer). SM79 also had no recollection of doing what was described in the "orders given" section of the form, namely clearing the woodyard of gunmen and protecting a stationary APC.

4.355 SM79 said that, many years later, he found out that Fr Fitzpatrick had been shot and killed. His memory was that the first time he became aware of this was when he was contacted by the Royal Irish Regiment, perhaps around 10 years before his evidence, in a letter asking him to contact them and fill out a document. He responded but then did not hear anything else about it. He said that he was definite that he did not find out about the priest being killed back at the time it happened as he would have remembered that.

4.356 SM79 said that he remembered talking to the priest. In his statement he said he was "a very nice guy and friendly to us" and, in oral evidence, "a decent guy". He said that, back in 1972, someone had mentioned that gunmen were using the Catholic Church to fire at them. He objected and said that he did not think that the priest would have allowed them to do that. He was upset when he heard that Fr Fitzpatrick had been killed. If he had been involved in the incident which led to his death, he said that he was sure he would have recalled it. He was also sure that he would have said something about it at the time because he was not shy at reporting things which he thought were wrong. He then gave an example of such an incident where a corporal had struck a member of the public with a rifle and he had reported the matter.

4.357 In his first statement, SM79 said that he may well have been on leave around 9 July 1972. Both of his grandmothers died within a short period of time and he was very upset about that because he had been brought up by them. He asked for compassionate leave but was refused because the familial relationship was not sufficiently close. However, he already had leave scheduled for July 1972 so decided

simply to wait for that. He could not recall the exact dates but the leave was not that far in the future, so he had decided to wait. In his second statement he clarified that one of his grandmothers had died in 1968 but that the second had died on 7 March 1972. He had been brought up by this grandmother and he thought it was her death in respect of which he had sought leave. He could recall flying from Belfast back to Manchester. He was not saying that he was definitely on leave but was just querying whether he may have been. He did not know when he was leave but thought it may have been at the time of this incident.

4.358 The witness said that, when he last spoke to the priest, he thought it was shortly before he went on leave. When he returned, the priest was not there and he never heard from him again. However, he did not know that the priest had been killed until he got the letter mentioned above.

4.359 He also indicated that there was another person in his group who had a similar name to him and that they had been confused for each other by the army before. He did not know therefore whether the witness debrief form referred to *that* soldier rather than himself. He provided some further details of this other soldier in his second statement. This soldier had been shot and the army had mistakenly told SM79's parents that it was him who had been killed. In the course of his oral evidence, however, he believed that the soldier with the same name as him was killed *before* 9 July 1972. (That being so, I was not sure how this soldier could be suggested to have been the subject of the RMP debrief form in relation to the SPD incident on 10 July, i.e. if he had been killed before that.)

4.360 SM79 emphasised that he had never fired his weapon in Northern Ireland and that he knew that for sure. He recalled an incident when he was in Corry's Yard and had nearly fired his weapon. The Royal Engineers were building another observation post at the bottom south-western corner of the yard and he was on guard duty that night. The night had been quiet and he had returned to barracks but, about an hour later, he was deployed back to Corry's Yard again. The IRA had got a JCB digger and were smashing down what the army engineers had built. The soldiers came in and there was gunfire from the Ballymurphy side of the yard, so they could not get into position. On this occasion the IRA were shooting at the soldiers from behind children, using the children as a shield preventing the soldiers from firing back. He said that, had the children not been present, he would have fired back but he did not.

4.361 SM79 said he thought this was around the time that Kgn Eustace Hanley have been killed but he did not know the exact day. He thought it may have been around late May. He recalled that when Kgn Hanley, who was black, was killed, some graffiti appeared in Ballymurphy which read, "We got your nigger". SM79 said that Hanley was a very popular guy in the platoon and his death and graffiti were very upsetting.

4.362 SM79's first statement was made before he had seen an unredacted copy of the witness debrief form relating to the SPD incident. When he made his second statement he had been provided with a copy of this. He was still of the view that the content of the form was not right for the reasons already given, the most important being that he was certain he had not fired his weapon in Northern Ireland; nor was he ever confronted by a gunman in Corry's yard with a machine gun. He had checked the date of birth on the form. The month and year were correct for him but the day was not. He accepted in oral evidence that the army service number looked like his. He also said that the signature on the form was different to his signature and he produced some photographs of signatures of his from army records in the 1970s.

4.363 SM79 had read the ciphered statements and was firmly of the view that he was none of those persons. He did not recall the events they described. He also noted that it appeared that the ciphered soldiers were relieved from duty at various times before and shortly after midnight of 9/10 July 1972. The witness also said that he was never interviewed by, nor spoke to, the RMP when he was in Northern Ireland. He also could not recall witnessing any civilians being shot or harmed and thought that, had he been present when people were getting shot, he would have remembered that.

4.364 More generally, SM79 said that Corry's Yard came under heavy fire on a lot of occasions and it seemed to be a daily event whenever he was there. Some days it was heavier than others, with some of the firing from heavy gauge weapons and some with armour-piercing bullets. He said it could be a terrifying place and that he was certain that there was much more firing at the yard than firing returned by the army.

4.365 In SM79's third statement he provided information which might have suggested that SM189 was present in Corry's Yard at the relevant time. This arose from information provided to him by his brother who, he believed, had spoken to SM189. He said that he remembered that when he was in Northern Ireland SM189 and SM412 were part of his section. (He could not remember the names of the other men in his section and thought that many of them may now be dead.) As they were in the same section they were normally together and would be deployed together and share the same sleeping quarters.

4.366 At some point after SM79 had been contacted in relation to this inquest, he mentioned it to his brother. He could not remember when that was, but said it was certainly a good while after he had been contacted by the MoD. He thought he had asked his brother whether he knew if anyone else from his section had been contacted. He did not think that anyone else had been contacted. SM79 said that he did that because he did not know anything about the case. He asked his brother to find out if anyone else had been contacted to see if they knew anything, as his brother is in contact with lots of veterans and SM79 is not. That was because SM79 left the army in 1975 and was not good with technology and had no mobile phone.

4.367 He thought that his enquiry of his brother was why his brother had then spoken to SM189, although he did not know when or how he did that. It may just have been on the phone. SM79 said he thought SM189 had got a message to his brother saying something about having to go to a hearing and that he (SM189) was wishing to speak to SM79. SM79 said he did not want to speak to SM189 because he was concerned that this would not be the right thing to do if they were both witnesses.

4.368 SM79 said that in consultation with his lawyers on 10 January 2024 he had mentioned SM189 as someone to whom they might wish to speak. In a further telephone call with his solicitor on 29 January 2024, he said there was some mention of SM223. In the course of that call, he said he mentioned SM189 again. He was not sure precisely what he had said on the call but he thought that he had mentioned something to the effect that SM189 had witnessed Cpl SM223 firing at a sniper. He was not sure whether this was about 9 July 1972 but thought he should tell his solicitor about it. This was what his brother had told him (SM79) that SM189 had said to him (SM79's brother). In short, SM79 believed that SM189 had expressed the view that he had seen SM223 firing at a sniper; and SM79 thought this was potentially relevant to the inquest, such that he should inform his solicitor. He also said in his evidence that he thought SM189 would know more than what he did and could help better; adding later that he thought SM189 was there and seemed to know more.

4.369 SM79 said that he had not spoken to SM189 himself, so this was all second hand from his brother. His brother had been a Kingsman but joined after 1972. For his part, SM79 could not ever remember seeing Cpl SM223 firing his weapon. He did not know anything about what SM189 apparently said. He thought Cpl SM223 was the sniper in his platoon and that there was only one sniper in their platoon. He was aware that there were two people called that name in their platoon, who were brothers, and clarified that the person he was referring to in his third statement was SM223. SM223 was his section commander and carried a different weapon, a .303 converted to a 7.62 with a sniper scope. He said he had never seen SM223 use it outside the firing range. SM79 also said that the sniper rifle would not be SM223's standard issue weapon, which would be a rifle the same as the rest of the soldiers. (That is why SM79 had, on one occasion, asked him about the sniper rifle). He said SM223 would have had the sniper rifle with him all the time when they were out. He described learning from SM223 about the ammunition for the sniper rifle. He never actually saw SM223 firing it but saw him with it in Corry's Wood Yard sometime early on in the tour, around two months after they arrived.

4.370 SM79 made a number of comments which I found intriguing during the course of his evidence. He said that "all these killings and one thing and another" was why he came out of the army. He also suggested that other (unspecified) veterans had been in contact with each other and "obviously know a lot more than what I'm saying". He said he personally had not really heard anything else and they

had “cut [him] off”. He later said his brother had more or less cut him off for asking questions. It appeared to me that SM79 was concerned, and possibly annoyed, that he had been contacted in relation to the inquest when he considered that (or to his knowledge) others in his platoon were more relevant or at least as relevant as him. At the end of his questioning by Mr O’Rourke, SM79 presented as being extremely emotional. He later indicated that he had no information to suggest that other members of his section (including SM223) were involved in the incident in Springhill on 9 July 1972 but, plainly, at least as far as SM223 was concerned, that was inconsistent with what he had explained in his earlier evidence.

SM233 (PIP)

4.371 SM233 gave evidence on 27 February 2024. He had provided two written statements through his solicitors, Devonshires, the first more substantive and the second a brief addendum statement.

4.372 SM233 could not remember what rank he was in July 1972. He said he may have been a lance corporal or a private. He knew he was in C Company and thought he had been in 9 Platoon. He later provided evidence that he had been a lance corporal at some point but was demoted. (SM233’s personnel file suggested this occurred in late May 1972, when he was demoted from lance corporal to kingsman.) He said this was because he had a run-in or disagreement with SM16. (Again, this is supported by the P File which suggests that the breach of discipline resulting in demotion related to being in possession of a waterproof which was the property of SM16.)

4.373 SM233 had been shown a witness debrief form from the SPD incident (RMP case 08553/2), which he said was apparently in his name and signed by him. He said he had no recollection whatsoever of the content of that document, to the extent that he doubted it actually referred to him. He acknowledged that there were some parts of the document which appeared to refer to him but other parts he thought were wrong. He had not seen a full unredacted copy of it when making his first statement and indicated a desire to do so. The witness debrief form indicated that the duty started at 22.00; and SM233 accepted this was likely to be 10.00 pm on 9 July 1972.

4.374 The witness debrief form also indicated that the weapon used was a sniper rifle 7.62mm. SM233 said that he would “often” have been provided with a 7.62mm sniper rifle, which were modified versions of an old .303 rifle. Those rifles usually came with a telescopic sight. He said in his statement that his role was as a “sniper/radio operator”. In oral evidence he said that he had been trained as a sniper and had a rifle adapted from a .303 Lee Enfield with adapted sights on it, a telescope sight. He said he carried this weapon routinely and it was the type of gun he kept with him. He was a good shot and had this issued to him when he went to Northern Ireland. He was not familiar with the term ‘starlight’ scope; and could not remember any issue with scopes in 1972 being affected by streetlights. He said he

would not know how many soldiers in C Company besides him had a sniper rifle or if he would have known them. In answer to a later question from Mr O'Hare, SM233 said that he could not remember seeing others in the company with a Lee Enfield gun. In answers to Mr Aiken, he said the .303 sniper rifle always had the telescopic sight.

4.375 Taking the witness debrief form at face value, it appeared that SM233 had fired four rounds at streetlights at 00.30 on 10 July. He did not think this was correct. His evidence was that he only fired his weapon on one occasion and he could remember the circumstances of that. He did not know why anyone would want to fire at streetlights, although speculated that it may have been to create darkness to make soldiers harder to see. He said he was sure he did not do that as he only fired his weapon on one occasion. In oral evidence, he again denied having shot out at any streetlights.

4.376 SM233 was asked about radios, given that he had described his role as a sniper/radio operator. He said he did not have a radio all the time; but used to stand next to the commander and that is what they used to be called because he stood next to the commanding officer in riot formation. He could only remember performing that role during exercises. Despite saying that he would stand beside the commander, and agreeing that this would be the platoon commander, he could not remember who this was (although he denied that it was SM16). In answer to later questions he said he would not have a radio with him in Corry's. The radio went in the guardroom and that is where it stayed. You would have a radio if out on patrol but he could not remember using it.

4.377 SM233 said that, had he shot at any person on 9 or 10 July 1972, he would have expected it to be recorded on a similar witness debrief form. His evidence was that he was frequently on duty at Corry's Wood Yard in 1972 and that he was there on numerous occasions when gunfire was incoming from the surrounding estates. These attacks could be very heavy and he could not recall any occasion when the army fired more rounds back than were being fired in. He accepted there may also have been occasions where he was asked to go and support others who were there. In oral evidence he said he would be in Corry's Yard every four weeks for a week at a time.

4.378 The one occasion on which SM233 could recall firing his weapon in Northern Ireland - which he said was the only time he shot his weapon in the whole of his army service, of which he was absolutely sure - was from Corry's Wood Yard. He could not remember the date when this happened or even the year. However, he described it as follows. It was about teatime, late afternoon, and there was an increase in attacks on the yard. He and another soldier were put on a woodpile as lookout and went "up top". Another soldier was at the bottom, who was an officer or sergeant. He could not remember who the other soldiers were. SM233 was sure that they were positioned up near the entrance gates to the wood yard; not in a constructed OP, just on top of a woodpile, and looking out in the Springfield

direction towards some flats. They were getting shot at by two men in the flats who were “bobbing up and down”. Rounds were pinging off surfaces close to SM233. The man at the bottom then instructed him to fire at them and he fired two rounds at the men. He said he knew he only returned two rounds. He did not recall if he hit them but the shooting stopped. He did not remember anyone telling him that he had hit anyone; and felt that, if he had, he would have been told and asked questions about it.

4.379 SM233 appended a map to his statement with markings showing the locations described in relation to this incident in which he could recall firing his weapon. The location from which he was firing is the long building at the north boundary of the site. His marked direction of fire was northwest towards the Springfield Road. He has also marked the guardroom, which was the rectangular building to the northwest corner of the site (with small storage tanks beside it in the maps provided by Mr Vannan).

4.380 At the time of this incident, SM233 said he did not know the location of any of the other soldiers in the woodyard, other than the man lower down from where he was, to whom he had been speaking. After his shots, he went to the guardroom where he discussed that he had shot at gunmen. He said the police were present, that is the civilian police (the RUC). He did not recall who he spoke to but thought he was asked why he had fired and he told them. That was the end of the discussion, very soon after the event itself.

4.381 SM233 said that no one had ever suggested that he hit or killed the gunmen on this occasion. He was sure he would have been told that and asked in more detail about it, if they had died. He also said that you would have been able to hear gunfire from within the guardroom but he did not recall any substantial gunfire, incoming or outgoing. There may have been the occasional shot but there was nothing unusual about that. He said he was sure he would have remembered blast bombs being thrown into the yard but did not recall any being thrown on this occasion.

4.382 In oral evidence, SM233 was unable to recall any further detail of substance in relation to the incident he recounted when he fired his weapon. He said he did not have to account for the rounds spent or do anything like that.

4.383 SM233 said he had considered the ciphered statements. He said he did not recognize the contents of the statements being anything like what he did and he was sure that he was not one of those soldiers. He was also sure he would have remembered giving a statement like that, particularly in relation to the shooting of people. He had also considered the RMP plan. He was sure that, on the one occasion he fired at the gunmen, he was at the *north* end of the yard near to the gates on a woodpile and not at the opposite (southern) end of the yard in any of the positions marked B-H on the RMP plan. He also said that he was not in an OP (at Position A). He was sure he only fired to the north and not to the south. In oral

evidence, he specifically denied being Soldier A (who had recounted firing at a light located on the wall of the SPD factory building at about 23.45 on 9 July), saying that he had never been at the SPD Factory.

4.384 SM233 also emphasized, as other soldiers did, how hectic that period of time was. He thought it may not have been until sometime later that he heard about the deaths in Springhill and did not now recall finding out, including when or how.

4.385 SM233 remembered being contacted by police about 10 years before, with an officer coming to his house and having a discussion. He thought the police officer was writing during this but had never seen any notes. He was sure the police had not shown him any documents. He had been shown a document dated 5 December 2012 which he said appeared to show that he had telephoned someone called Keith Douglas of the HET. There was a handwritten note on the front of it which said: "Was there - but kept his head down. Doesn't want to be seen." SM233 said that he did not recall any discussion about the incident with the police on the telephone. "However, it is entirely possible I told them what was recorded." To explain this, SM233 said that he was in Corry's Yard on a frequent basis so may well have assumed that he was there at the relevant time. He said it was also his practice to "try and keep my head down" as it was a very dangerous and scary place to be. He did not want to get involved in any danger if he could possibly avoid it. He could not understand the reference to not wanting to be seen. He said he would not have said that to the police and that, in fact, he did see them. In his oral evidence, SM233 denied receiving the letter which appears to have prompted the phone call to Mr Douglas. He said he did not tell Mr Douglas anything, although he accepted it was possible that he did say what was recorded.

4.386 SM233's second short statement was made after he had seen an unredacted copy of the witness debrief form referred to at paras 4.240(i) and 4.375 above. He confirmed that the personal details in the form appeared to be correct. The date of birth was a little blurred but appeared to be his; and the signature on the form appeared to be his. He could see that the location to which the form related was not Corry's Yard but the SPD building. He had seen where that was on a map and had no memory of it or of shooting out the streetlights at the SPD building. He reiterated his previous position that his only memory of firing his weapon was at the men in the flats; and said that, if he had fired his weapon at persons on other occasions, he would definitely remember that. He remained sure that he did not fire at any time at the other end of Corry's Yard. He had re-read the ciphered statements and said that he was definitely not one of those soldiers.

4.387 In oral evidence, SM233 accepted that it was his signature on the debrief form and that he would not have signed a blank document. However, he denied ever being in the SPD Factory in Springfield Road or ever having been round there. He said he did not have a clue what the reference to "stand-by" meant and denied it was one of the duties he performed. He denied being familiar with the term QRF or response team or ever having performed the role of QR Team. He said he could not

remember going to support others. He could not explain why he had said in his initial statement that there may have been occasions when they were asked to go and support others who were in Corry's Wood Yard.

4.388 Although SM233 could not remember any names of other soldiers put to him, during the course of his evidence he agreed to look at a company photograph taken during the Hong Kong tour to see if it would jog his memory. After lunch, he indicated that this had assisted and he could remember Kgn Gwilliam (then deceased); SM79; SM104; SM106; SM108; and SM407. He thought he knew all of these people from 9 Platoon (although SM108's and SM79's evidence suggested that they were attached to 7 Platoon).

4.389 There were many things that SM233 professed not to remember, even basic matters such as roughly when he joined the army (although he eventually said this was when he was around 16 years old). He repeatedly said he could not remember or did not know things, including matters which I would have expected to have been common knowledge from his army experience (of some 10 years) and/or uncontentious. One of the few other soldiers he appeared to remember was SM16. Other than that he denied knowing or remembering anyone, with the exception of those mentioned above after the Hong Kong photograph had jogged his memory. He could, however, remember his 8-digit serial number which he was able to recognize on the unredacted debrief form. I formed the impression early in his evidence - which was not displaced throughout its remainder - that he was not really trying to assist.

4.390 Indeed, I did not believe a range of answers he gave, including in particular his lack of familiarity with the QRF or response team. I also did not believe that SM233 had only fired his weapon once in all of his service. In answers to Mr O'Donoghue, he accepted that he was a sniper whilst on three tours of duty in Northern Ireland and was a sniper, yet had never fired a shot at any gunman ever (save for the one incident he mentioned).

4.391 In my view, SM233 could not adequately explain the witness debrief form which clearly related to him and which he had clearly signed. He initially wished to contend that it did not relate to him but ultimately had to concede that it did. He nonetheless challenged its contents. Either he was wrong in this - and he did in fact fire his weapon at lights on the night of 9-10 July 1972 - or the debrief form was wrongly completed at the time but still signed by SM233. Either of these explanations is concerning. I was not persuaded that SM233 had shot out lights (as suggested in the debrief form) but had simply forgotten this. He was so adamant in his answers on this point, and unwilling to admit of any possibility that he could be mistaken on it, that I considered it more likely than not that he was being dishonest about it, or at the very least reckless as to whether he was giving honest answers, if he had indeed shot the lights out. If the form was wrongly completed at the time to account for rounds which had been fired by him that night which were *not* at

streetlights, that too would be matter of concern. However, I considered the more likely explanation to be that the contents of the debrief form were in fact accurate.

SM223 (PIP)

4.392 SM223 gave evidence on 8 February 2024 and on 25 April 2024. He provided two statements; one drafted by my investigator and, later, one submitted through his own solicitors. The second statement, and his recall to give further evidence, occurred after he was named in evidence provided by SM79 and SM189 and then granted PIP status. He did not have this status at the time when those two witnesses gave their evidence and therefore was not represented when they were examined. I refused an application on his part to recall them at a very late stage of the proceedings.

4.393 To his recollection, in July 1972 he was a member of 7 Platoon, C Company. He initially stated that he was a Lance Corporal in 7 Platoon. However, he later qualified that to indicate that, in 1972, he may not yet have held that rank. He was certain that he was a Lance Corporal on a later tour in 1975.

4.394 SM223 described that he had received training on the SLR, the Sterling SMG, the .303 sniper rifle, a general-purpose machine gun and an anti-tank weapon. He recalled undertaking a two-day sniper course on the .303 rifle, noting that only a small number per company (approximately four) were sniper-trained. He did not know if there were any other trained snipers in 7 Platoon. SM223 did not recall firing the sniper rifle in Northern Ireland. In addition, he did not recall ever firing his weapon operationally in Northern Ireland (only on ranges). He did not recall giving statements to the RMP or the RUC regarding any incident.

4.395 SM223 said that he had not completed the section commander's course and was not the regular section commander, even if a lance corporal. He may have filled the role when staffing required (and he recalled performing this role when Kgn Hanley was shot and killed on 23 May 1972).

4.396 SM223 said that he very rarely did duty in Corry's Wood Yard. This was only once or twice during the four-month tour. He was uncertain that he was there on 9 July 1972, which was his 20th birthday.

4.397 SM223 did recall being shot at while in the yard: a first shot followed by four or five more shots. He took cover behind a bundle of timber; and a round struck the ground about two feet to his left. From his covered position he could not see Corrigan Park or the SPD warehouse. He did not see any gunmen, cars or wounded persons; and said that he could not see over the fence. He believed the person who shot at him was elevated (possibly in the flats in Springhill). There was no return fire because no target was visible. SM223 was uncertain of the date of this incident. He believed that it was *not* 9 July 1972 because, as mentioned above, this was his 20th birthday and he would have remembered that. He also thought that he could have

been on R&R at that time. (He could recall two periods of R&R; these usually lasted four days in total). He repeatedly distinguished the incident he could recall as a short exchange (four or five shots), which occurred in daylight, which he placed around midday. The 9 July events involved more prolonged firing and that was a further reason why he believed this was not the same incident. In addition, the ciphered statements refer to firing south of the woodsheds, whereas SM223 believed his group was fired upon from the west or east and did not return fire.

4.398 SM223 said that he did serve on QRF duties now and again. This would typically be 7-10 men. The group would include a radio operator and could be commanded by a sergeant. The weapons taken would depend on the task. He could not recall being called to Corry's Yard as part of a QRF.

4.399 This witness reported having no recollection of the time of the deaths occurring. He said that he only learned about them about two months ago. He believed that, had he been told by colleagues or a senior officer of a serious incident, he would have remembered. He was reluctant to provide names of others in his section in case he was in error. He thought he could recall three names, in addition to himself, out of roughly ten.

4.400 When recalled, SM223 was unequivocal that, in July 1972, he was simply a Kingsman and not a Lance Corporal. He said that he only achieved that rank in September 1972. This was corroborated by his personnel file. He also corrected his earlier statements in which he had believed that he had acted up as a section commander. He now believed that this was an incorrect assumption. As a mere Kingsman he said that he would not be given command of a section in a live deployment in Northern Ireland. This would have been exceptionally unusual.

4.401 His further evidence was again to the effect that he did not believe that he was present in Corry's Yard on 9 July 1972. He could not recall whether he was ever deployed to Corry's Yard at any point, either on patrol or as part of a QRF. However, he suspected the incident he had previously recalled of being shot at was during a patrol, not a QRF response, because he remembered no briefing in advance of it (which he believed he would have had if he had been deployed as part of a QRF). He reiterated that he had no knowledge whatsoever in July 1972 that 7 Platoon had been involved in a major shooting incident at Corry's Yard. He thought that August 2023 was the first he had heard about this. He said he had never heard anything about a serious gun battle there.

4.402 In response to SM189's evidence that he (SM189) was a section leader, that SM223 was his lance corporal and that both were present in Corry's Yard as part of the QRF on 9 July, SM223 denied this. He said that all of these assertions were wrong. He was not a lance corporal at the time; he was not SM189's second-in-command in a section; and he did not believe that he was in Corry's Yard on 9 July 1972. He felt that SM189 had been mistaken and confused, partly because he (SM189) wrongly believed that he was SM223's section commander. He

remembered SM189, who was funny, but did not ever remember being on duty with him.

4.403 SM189 stated in a later statement that SM223 had told him (SM189) that he (SM223) had seen a priest with two gunmen at or near Corpus Christi Church on 9 July 1972. SM223 categorically denied ever having said this. His evidence was that he never reported such a sighting as he had not seen it. He could not explain why SM189 made this claim but felt it stemmed from confusion.

4.404 SM79 had also given evidence that SM223 was the platoon sniper, that he routinely carried a .303 rifle, and that he had fired at a sniper on 9 July from Corry's Yard. In response, SM223 denied ever regularly carrying a sniper rifle. As indicated above, he confirmed that he was sniper-trained but said he only carried a .303 rifle for training, sniper-specific missions, or covert ops (which he never did). He firmly denied firing at a sniper on 9 July 1972 at Corry's. He also said that he did not remember SM79 at all.

4.405 SM223 also gave evidence again that he never discussed events in Corry's Yard with another soldier at the time. He also said that he had no conversations with his brother (SM108) about it in 1972, in 1973 (in Hong Kong), or afterwards, until August 2023 when he finally learned of the events. He said he did not know about them until then. He believed his brother was in 9 Platoon, saying that he would remember if his brother was in his own platoon, as he would then have seen him frequently. He accepted his brother *might* have been in 7 Platoon but in a different section.

SM189

4.406 SM189 gave evidence on 18 April 2024. He was one of the very few soldiers who accepted they had been present in Corry's Wood Yard at the time of the incident relevant to the deaths being investigated in this inquest. He was a Kingsman in C Company, 7 Platoon, and said he had only been in the regiment a few months. In light of the evidence of SM79, he had been granted PIP status and provided two written statements through his solicitors before giving oral evidence.

4.407 SM189, like others, emphasized the amount of time which had passed since 1972 and said that his memory of his service, and those he served with, was very limited. He left the army following getting married and said he 'bought himself out' in 1976.

4.408 SM189 thought Lt SM179 was their platoon commander, although said SM16 (who also went on to become CSM) was also their platoon commander at one time and he could not recall when that changed. He could not remember the other soldiers in his section but could remember SM117, SM79, SM412 (who he thought was jailed in Hong Kong), and Billy Hanley who was killed on a road adjacent to the wood yard. He said they were all from 7 Platoon as far as he could recall. In oral

evidence he said that SM223 was in charge of their section. He thought SM223 was a lance corporal at that time. He could remember doing QRF duty, as well as patrol and guard duty at Corry's Yard. He had performed QRF duty, including at Corry's Yard on more than one occasion.

4.409 SM189 said that he was sure that he had never spoken to anyone from the RMP during his service, including (but not limited to) when he was in Northern Ireland. He also said that he was sure he had not spoken to anyone from the SIB, which he had understood to be "higher up" than the RMP. He said he would certainly remember if he had ever spoken with them. In his oral evidence he again maintained that he had not made a statement to the RMP. He was positive he was not interviewed.

4.410 In his written statement, SM189 said that he had no memory of an incident in 1972 involving five people getting killed by the army. The first he knew of this was when he read a letter from the LIU. He said he had been 'wracking his brains' but just could not remember anything about this. He also could not recall any press coverage or talk amongst the soldiers about a priest being killed by the army. Again, the first he heard of this was when contacted about the inquest.

4.411 SM189 said that, looking back, he had some vague memory of a rumour that a priest was helping the IRA. All he could recall is that it was a rumour about a priest, and not the actual name. He was rumoured to be helping the IRA hide guns in Corpus Christi Church and it was said that this had been going on for a long time. The police and army would not go in and find out whether it was true or not. In oral evidence he said he heard this from other soldiers and it may possibly have been from other soldiers in his section, he thought before the events in July 1972.

4.412 SM189 reiterated that there was no "chatter" about five people being killed by the army or the killing of a priest. He said they watched the Ulster News on a night from time to time; but he did not recall ever seeing the subject matter of these inquests being broadcast. He was shocked when he got the correspondence about the inquest and said he could not believe that any of his colleagues would have killed five people for no reason; they were taught and told not to do things like that.

4.413 SM189 said that he remembered Corry's Wood Yard and estimated that he was in it four or five times over the tour. His evidence was that they usually did four hours on and four hours off. He recalled that they took their rest "in the foreman's place" but also recalled that they would have returned to their base. He could remember some incidents but not the dates. In particular, he could remember a gun battle which lasted for several days, but again did not know the dates or when he was deployed to the wood yard. (He recalled a *different* occasion when there was an incident with a JCB. He could not remember whether this was before or after the gun battle mentioned above; but it seems clear to me that this was the May 1972 incident and SM189 also recalled an additional gun battle at Corry's lasting several days.) In his second statement SM189 clarified that this gun battle that he

remembered appeared to be the one which formed the subject of these inquests. He could not remember getting debriefed after this gun battle. He said the soldiers could have talked about it but he did not remember this. He did not remember anything said about the killings; they were told nothing; and nothing happened afterwards. He repeatedly maintained that he did not hear about any deaths while in Corry's yard or around that time.

4.414 In oral evidence, SM189 effectively accepted that the gun battle he remembered was on 9 July 1972 and the one which was the subject of this inquest, although he said he could not say for definite he was in the wood yard when the deaths occurred. He agreed he was there on that date as part of the QRF. He could not remember exactly how many soldiers attended with him but said he would say eight. They went together in a 'pig'. There were other soldiers from his section with him including L/Cpl SM223 and SM79. SM16 was in the yard but not with SM189's section; and was there when he attended as part of the QRF. SM16 did not travel in the pig and SM189 said that he did not see him; but that SM16 was "probably there delegating", probably from the guard room.

4.415 SM189 did not remember, even roughly, the time he went to Corry's as part of the QRF. When they travelled in the pig it was daylight. He said there were already some soldiers in the yard but he did not know which platoon they belonged to. He could not remember how soon after getting there that he was delegated to do something or deployed but he would not have thought that it seemed like a long time. He could not remember how long he remained there and also could not remember if it went into the night. He could not remember if SM233 or Sgt Whitworth were with him. He said that Kgn Felmingham was not with him. He later said that it was possible that another QRF came into the yard that night but he did not know if that happened. He believed SM16 and SM179 were in charge of the QRF. He did not see SM179 on 9 July at all as far as he could remember. He thought it was SM16 who was giving the orders and directions for the night. He could not remember if SM223 had given any orders or instructions.

4.416 In relation to the specific incident at Corry's Wood Yard to which this inquest relates, in his statement SM189 said he wished to assert his privilege against self-incrimination in relation to the events around it and how he was aware that the gun battle he remembered was the subject matter of this inquest. He did say, however, that he never knew that a priest and a 13-year-old girl had been shot dead. He only learned this in early 2024. The thought of the death of a 13-year-old girl had greatly distressed him. SM189 also specifically denied being one of the ciphered soldiers. When asked if he could help identify any of those soldiers, he repeated that he only knew about the civilian deaths when he received correspondence from the LIU and also said that he did not know anything about what happened in different parts of the wood yard. Soldiers had each been delegated to go to a certain area. He was asked if he had seen a priest when in the yard and said that he had not. When asked about specifics during the course of his oral evidence, he again asserted his privilege.

4.417 SM189 said he did not know that SM223 was a sniper and denied that SM223 had a different weapon. He said he had not ever seen him in position of a .303, although he had heard conversation in which that had been brought up. SM189 said that he himself had a regular SLR and not an adapted weapon. When asked by Mr Scott about his understanding of when he was entitled to fire – and whether this was simply when a gunman had been identified – SM189 said they were only allowed to fire if they came under effective fire.

4.418 SM189 also said that he had some memory of an IRA ceasefire. During that time they went down and spoke to Mr Bryson (who SM189 thought was a former paratrooper who had been recruited to the IRA). Bryson was bragging that he had shot Kgn Hanley and was going to shoot SM179 also. SM189 therefore thought this incident was after Kgn Hanley's death.

4.419 As noted above, SM189 recalled the incident with the JCB when the engineers were going to build another sangar at the bottom corner of the woodyard. A stolen JCB was being used by a kid to demolish the wall and they got called down to stop him. He ran off and then a crowd appeared and started throwing petrol bombs at them. SM189 did not use his weapon on that occasion. He thought that SM79 was there, as was SM412. That was all he could recall. SM16 was also there and he said that they got a citation for what they did at that time. He also recalled a further incident at Corry's when he was in the sangar at the top of the site with SM426 and a dummy or mannequin, when SM426 got shot in his arm.

4.420 SM189 went to Hong Kong after the 1972 tour in Northern Ireland. He remembered Mick Felmingham and him dying in Hong Kong. He was putting a television aerial up and fell off into a storm drain. SM189 had no knowledge or recollection of any rumours about him and events in Northern Ireland.

4.421 As to SM79's evidence about contact between SM189 and SM79's brother, SM189 confirmed that he had known SM79's brother for several years. SM189's recollection was that SM79's brother contacted him (SM189) at the start of 2024 enquiring about a soldier called Bennett who was deceased. He did not think SM79's brother had mentioned an inquest at that time, but he was not sure. SM189 said he had not been contacted by the LIU in relation to assisting the inquest at that time. SM79's brother contacted SM189, not the other way around. SM189 then had further contact with him in the month before giving evidence in which there was a conversation about SM223. Again, SM189 thought that the contact had been initiated by SM79's brother.

4.422 As to the content of any discussion, SM189 said that SM79's account was incorrect. SM189 said he did *not* say to SM79's brother that he had witnessed SM223 firing his weapon at Corry's Yard. He had never witnessed SM223 firing at a sniper or indeed anyone else during his service in Northern Ireland. He accepted that he *had* said that SM223 had told him he had seen a priest and two gunmen at Corpus Christi Church. He presumed, given the details of which he was aware, that this

must relate to the events of 9 July 1972. As to when and how he knew this, he asserted his privilege against self-incrimination. He did not recall SM223 saying or suggesting that the priest was a gunman.

4.423 SM189 did believe that he may have asked SM79 to contact him but he could not say when this was, although it was in 2024. In the event, he had had no contact with SM79. When asked why he had made this request, SM189 said that it was because of what SM79's brother had said, namely asking about Bennett; and SM189 had not known what that was about. SM189 said he wanted to ask SM79 why his brother had been asking about Bennett. When asked why SM189 did not simply ask SM79's brother about this, he said that he had. SM79's brother told him it was something to do with SM79; but he did not go into any detail. SM189 accepted he knew Jimmy Bennett and agreed he was the CSM, but he could not remember Bennett being CSM. He thought that may only have been for a very short time.

4.424 In examination by his own counsel, Mr Skelt, SM189 reiterated his limited memory; that he had never spoken to the RMP; that he did not himself see SM16 at the wood yard; and that he could not remember who was giving orders. He also agreed that the only date suggested to him in relation to when he was in the wood yard was 9 July 1972 and he could have been there on other dates such as 10 and 11 July, and could have been there more than once. At the very conclusion of his evidence, SM189 said that he hoped the families would "get to the bottom of this and get to know the truth".

Discussion of the event afterwards

4.425 Many soldiers were asked whether they had heard any discussion, or even rumours, in relation to the events of 9 July 1972 and the shooting of civilians on that date, either shortly after the incident or since. Broadly speaking, there were two strands of evidence in relation to what would or would not have been spoken about after the incident. Several witnesses suggested that there would be, or had been, talk about it (although usually described just as gossip or rumour). On the contrary, several witnesses indicated that this type of event would *not* be spoken about on a range of different bases. These may have included the fact that those involved did not want to speak about the incident for a range of reasons. Many witnesses also made the point that the tour was so busy and dangerous that one did not have time to dwell on incidents. Even major incidents were soon surpassed by new emergencies or threats. SM123's evidence was that no one would appreciate today the pace they were moving at then; soldiers did not stop and were run off their feet.

4.426 Many witnesses also made the point that knowledge of the incident was not as widespread as one might today assume. (There was, of course, no internet or social media at the time.) One would have been aware of matters from the television or print media, but not all soldiers had access to these, paid attention to them, or had any interest in them. For instance, SM13 referred to not being aware

of things outside their “little bubble”. SM16 said that he did not get newspapers in Northern Ireland when on duty. SM114 said he did not ever remember having a television and, when asked about hearing about the incident on the radio, said that when the soldiers had time off they just slept. He said they did not have newspapers and seemed cut off from the outside world, in a blur of working and sleeping.

4.427 In contrast, SM92 thought he had heard on the television news that a priest had been shot. When asked if there was a TV room in the barracks, he said he thought so, otherwise he would not have heard it. Until hearing that a priest had been shot, he said he had understood it was a gunman because he had heard there was a fire. When asked about watching TV, however, he (like SM114) said that he preferred to sleep because you could be called out at any time. He only learned about the death of other civilians when written to by the LIU.

4.428 SM57, a platoon commander in B Company, said he was not aware at that time that people were shot in Westrock. He heard, days later, possibly via the television, that a priest had been shot which he thought was unusual. He was unsure whether soldiers in his company knew what had happened at the time.

4.429 Although uninvolved in the incident itself, SM17 indicated that he became aware through rumour, gossip and later conversations that there had been a “big incident” and that people had lost their lives. He emphasized, however, that events in West Belfast at that time were constant and traumatic, which meant that soldiers often suppressed or ‘bottled up’ information and then moved on quickly. When pressed repeatedly on whether he knew, or asked, whether soldiers under his general command may have killed civilians, innocent or otherwise, he denied this; and could recall no conversations to such effect.

4.430 SM382 expressed surprise that the first he ever heard of the killings – including that of a priest and a young girl – was when contacted by the LIU in 2024 since such an incident would have been widely discussed; yet he does not recall any such discussions. Other soldiers gave similar evidence, for example SM349. Likewise, SM384 said that he was not aware of the shootings until he received a letter from LIU. At the time he had heard generally that a priest had been killed but no details were discussed and no one mentioned a thing. SM349 said he had never heard anything within the camp being discussed about shootings at Springhill and was unaware that people had been killed until he received his letter from the LIU. A number of military witnesses gave evidence to similar effect. SM114 described the fact that he was a new soldier to the company and that the older soldiers did not really trust them and did not speak to them much. He also said, however, that no one *ever* talked about Belfast in his company. It was “locked away in the back of your head and that was it”. He said the incident in Springhill was never spoken about for some reason, even when the regiment left Belfast. Others did accept that they had heard something of at least some of the deaths previously, as discussed further below.

4.431 SM113 said he had no recollection of discussing the deaths but said that soldiers probably would have talked about them at the time as it was a pretty major incident. SM108 said that he did not hear any details of what happened, just that people were killed, which was “general talk” at the barracks. SM108 had heard gossip that Mick Felmingham had been involved in the death of a priest. He is unsure whether this was at the time or later.

4.432 SM109 said he remembered when he returned to base (either from his promotion course or R&R) there was “some chat about people being killed”. He said he was told that the soldiers were fired on and returned fire and shot someone with a gun. The gun dropped and someone else went to get it and they were shot also. He believed his platoon (7 Platoon) was involved but did not know who was involved in the shooting and could not remember who was talking about it. He believed at the time that 7 Platoon was involved but he did not know if this was as OP or in the QRF but said, “All I know is they were involved” relating to the person with the gun being shot. He formed the view that another soldier in his platoon was involved in shooting civilians from what he heard.

4.433 SM109 accepted that he was probably told who was firing. He initially said that he could not remember who he had been told was involved. I did not believe that answer. He did remember that SM16 was their platoon commander at the time but was not told that he had some involvement in the incident. He also said that he did not think 7 Platoon was called in as the QRF but, rather, was on guard duty; although he later said that he just surmised this and did not know what duty they were on. In reexamination by Mr O’Rourke, SM109 accepted that he did have names in his head but was reluctant to tell the court them because they may be inaccurate with the passage of time. He had also mentioned previously that they were simply based on rumour. He was also not willing to write them down and pass them privately to me. He then said he only had one name of someone who may have been identified as a shooter. After the lunch break during his evidence, SM109 disclosed the name, which was Kgn Mick Felmingham. He emphasized that he had not spoken to the man himself and that this was only a rumour. He said he had heard that a gunman had been seen and he was setting up to shoot and he was shot. Other people then came to pick up the rifle. SM109 had only thought there was one man involved until he read the ciphered statements from others. The content of those statements was all new to him; and he had never heard that before at all.

4.434 SM407 said that he did not know about people in Belfast being killed until he returned to the barracks in England. All he heard was that some people were shot. He did not know who was involved and did not believe anyone from his platoon (9 Platoon) was involved. He heard no mention of any names of persons involved in the shooting or any details of it. When asked about this in oral evidence, he said that it was when a soldier in the NAAFI (canteen) mentioned that “innocent people were killed”. He did not know who this was. He speculated that it may have

resulted from crossfire because of the amount of shooting at that time, although he did not know whether this was what actually happened.

4.435 SM100 said that the first he found out about any deaths was when he came back from duty on Black Mountain (a couple of days after the night he described) “and all the talk was about Father Fitzpatrick being killed”. However, he said he did not find out about the other deaths until he was spoken to by the HET. He did not know anything about the other deaths, in particular about any teenage girl being killed. SM100 suggested that *if* there was no discussion about the deaths – particularly the deaths of three children, which he was asked about by Mr Moriarty – he could only think that “the people that did the shooting were too ashamed to say it”.

4.436 SM10 said that they found out from the news in the base the following day that a priest had been killed; but the news did not say that four other people had been killed. He also indicated that no one spoke about having killed people.

4.437 SM117 said that he first heard about five civilians losing their lives on 9 July 1972 in Hong Kong, in 1973. He said it was just a rumour, that five people had been killed. The rumour was that they had been killed by the army but that was just hearsay. He heard the rumour about Mick Felmingham. Prior to that he had not heard about any deaths on 9 July 1972. He found it strange that there was no discussion among soldiers about five civilians being killed, since normally any significant incident would be discussed widely in the platoon, which is why he did not understand “why nothing was said”.

4.438 The impression I formed was that there was a general awareness, at least amongst some, that a priest had been killed, perhaps because this featured more prominently in early press reporting. As can be seen from the ciphered statements, even the next day, questions were being asked about the potential shooting of a priest during the incident. There appears to have been much less awareness in relation to the shooting of a young girl, Margaret Gargan. The impression I had was also that, although the representatives of the next of kin in this inquest repeatedly raised the issue with military witnesses of children having been killed, it would not have been unusual or remarkable for a boy of (say) 15, 16 or 17 to have been shot.

4.439 Repeated questioning of various military witnesses about what they heard or discussed after the incident – whilst entirely proper and legitimate – did not, in the vast majority of instances, really assist me. With the exception of SM13, who described becoming aware of information relating to the incident in the Ops Room (a discussion of a different character from the gossip or chit-chat described by other soldiers), there were really only two potentially significant strands of evidence which related to talk about the incident in the barracks or between soldiers in its aftermath. The first of these relates to a conversation recounted by SM123; and the second relates to the potential involvement of Kingsman Mick Felmingham.

4.440 SM123's evidence in his written statement to the inquest was that he found out about the incident in the wood yard two days later, from a discussion between two soldiers. He could not now remember who the soldier was but said that he was "giving off" and commenting on civilians having been shot by soldiers. SM123 intervened to stop the discussion and reported the matter to the CSM. He said the talk was that SM16 and Peter Doherty were involved. He also reported that to the CSM. He emphasized that, unfortunately, he could not remember who was saying it at the time. He was clear, nonetheless, that neither soldier was in his own platoon (making it likely that they were from either 7 and/or 9 Platoon). However, both the soldiers in the conversation had to report to the CSM after SM123 had referred the matter to him; and he watched them go into the CSM's office. Several days later the CSM told him that he had dealt with it. Even though he knew them both, he did not ever ask or speak to SM16 or Sgt Doherty about what he had heard. He never heard anything else about what had happened on 9 July. Indeed, his evidence was that he never heard *anyone* talk about it, which surprised him.

4.441 SM123 plainly felt strongly about the subject matter of this inquest. He became visibly moved during the course of his evidence. His evidence was that all five civilians who were killed that night should not have died. However, he said that was not a conclusion he reached in 1972 but much later when he had sat down and analysed what went on and what happened; and spoke to some other officers and senior NCOs (who made it clear they did not want their names "bandied about"). He said the way it was handled was absolutely awful. An article he had read a long time before (perhaps 15-20 years before his evidence) triggered something in his mind and he started reading into it.

4.442 The other important strand of evidence which emerged in questioning relating to this topic was the persistent rumour that Kgn Felmingham may have been the soldier responsible for the shooting of Fr Fitzpatrick. I discuss that suggestion in greater detail in Chapter 12.

5. THE COMMUNITY NARRATIVE

5.01 A number of members of the local community in the Springhill and Westrock areas – principally the families of the deceased – have been campaigning for many years now to have a full inquest or inquiry into the events of 9 July 1972. The thrust of the campaign has been that the killings were wholly unjustified; but also that, in any event, a full inquiry is required in order that there is some accountability for the deaths and that the families can seek and obtain answers to questions they have in relation to what happened and why. Some elements of that campaign are dealt with in Chapter 7.

5.02 As again pithily summarised by senior counsel to the coroner, Mr O’Rourke, in his opening of the inquest, “The contrary narrative to that of the military is that the Springhill deaths resulted from the illegitimate, unjustified and indiscriminate use of force by the army on civilians.” The totality of the civilian evidence is obviously more complicated than that and, as discussed in further detail in Chapter 6, there is some civilian evidence of civilian gunmen firing at army positions at times which are relevant or potentially relevant. Nonetheless, no civilian gave evidence that the shooting of any of the deceased was justified or explicable on the basis of any threat they were posing.

5.03 It is impossible to summarise succinctly the full body of civilian evidence which has been provided in relation to the events which are the subject of investigation in this inquest. This is a much easier task when it comes to the army narrative since, by and large, that is contained in the statements of the ciphered soldiers who were directly involved, limited in number and all in the location of Corry’s Wood Yard. In contrast, there is a wide variety of witness accounts from civilians, which are summarized in some detail in the course of the later chapters of this ruling dealing with the various incidents. As one might expect for a variety of reasons, not all of this evidence is consistent.

5.04 This chapter is largely devoted to what appears to be the earliest written community account of the events, contained in a publication entitled ‘The Springhill Massacre’ and referred to throughout the inquest variously (but interchangeably) as “the Springhill Massacre booklet” or “the Springhill Massacre pamphlet”. This publication featured heavily in both the MoD submissions and its questioning of some witnesses.

5.05 There are a number of other books or publications which contain partial accounts of the events of 9 July 1972 in the Springhill and Westrock areas, or at least elements of those events, which might be said to have been written from a community perspective. Those which were raised in evidence are discussed elsewhere in the course of this ruling, particularly in Chapter 6 and/or in Chapters 9-11 where they were put to civilian witnesses. Those accounts include de Baroid, *Ballymurphy and the Irish War* (1989, Aisling Publishers); O’Rawe, *Blanketmen* (2005, New Island); and Kelly, *Painting My Community* (2018). The Springhill Massacre

booklet is, however, as far as I am aware, the only publication produced by the local community itself specifically dedicated to the events of 9 July 1972 in the area.

The *Republican News* account

5.06 There was an article about the events in Springhill included in the publication *Republican News: "Voice of Republican Ulster"* in its edition (Vol 2, No 44) published in the week commencing Friday 21 July 1972. I do not assume that this publication spoke for the community as a whole in Springhill or Westrock. However, elements of the article were later replicated and essentially adopted in the Springhill Massacre pamphlet. The article represents an early account of the events which appears to have been compiled after discussion with (at least some) local residents.

5.07 The title of the article is 'Ballymurphy's Bloody Sunday'. It has a large hand-drawn plan of the Springhill/Westrock area with a key, showing (inter alia) the location of cars; Springhill houses; Westrock bungalows; and the locations where it is said that Fr Fitzpatrick, Paddy Butler, David McCaffrey (sic) and John Dougal were shot dead, and where Brian Pettigrew (sic) was wounded in the chest; and locations of where two snipers were said to have been positioned within Corry's Timber Yard. The text of the article thanks the Liam McParland Sinn Féin Cumann for permission to reproduce the sketch.

5.08 The text of the article is in the following terms (fleshing out a timetable which had previously been published in the *Irish News* on 11 July 1972: see para 3.100):

"The following is an account of what happened between 9.50 p.m. - 10.05 p.m. last Sunday, 9th July, 1972, in the Westrock Drive in the Ballymurphy area of Belfast:

9.50 p.m. Two shots were fired from Sniper No. 1 in Corry's Timber Yard at two cars (M. N.). One car reversed and the other moved forward to the cover of Bungalow (vi) [47 Westrock Drive]. As the occupants got out of the cars, Sniper No. 1 opened fire again with approximately 14 shots. Martin Dudley (19) was hit in the head and seriously wounded. The other passengers were pinned down for approximately 90 minutes.

9.53 p.m. Mr. Paddy Butler (38), ran to get a priest for Martin Dudley.

9.54 p.m. On hearing the shooting and seeing Dudley's body lying in the street, John Dougal and Brian Pettigrew (both 17) ran from Bungalow

(iii) [56 Westrock Drive] towards the wounded man. At this point Sniper No. 2 opened fire killing Dougal and wounding Pettigrew in the chest.

9.57 p.m. Father Fitzpatrick and Paddy Butler arrived on the scene. They were accompanied by David McCaffrey (14). Someone then shouted that a young girl had just been shot and that she needed a priest. She was Margaret Gargan (14) who had just been shot dead by a third Sniper further along Corry's wall. Father Fitzpatrick and Paddy Butler ran from the cover of House (A) [the block containing 62, 64, 82 and 84 Westrock Drive]. Sniper No. 1 opened up and shot the priest, the same bullet passing through him and killing Butler. Young McCaffrey attempted to drag the bodies to safety but he was hit several times in the back and side by Sniper No. 1 as he bent over Father Fitzpatrick. The time was now approximately 10.05 p.m.

In conclusion, the British Army opened fire on innocent civilians killing five and wounding another two. They fired without any provocation whatsoever. Up until the time of these murderous attacks, no shots had been fired at the British Military post in Corry's Timber Yard."

The Springhill Massacre booklet

5.09 The evidence suggests that there were in substance two versions of the Springhill Massacre booklet. The first was published in or around 1992, seemingly by a local community group or committee. In some respects, this version is a fuller version than the later version which was published in 1999. (There appears to be a number of different editions circulating after 1999 but, from that point on, each edition appears to have been the same in terms of the substance of the text. A number of different versions were available, some of which were sourced from the Linenhall Library.)

5.10 Throughout the inquest, and in this ruling, the focus has been on the earlier edition of the booklet, since it contains a greater amount of information and text than the 1999 or post-1999 editions. On the MoD case, the 1992 version contains more candid accounts. It was produced to promote the families' call for an inquiry into the deaths. The evidence suggests that, in 1999, the campaign was taken over, or at

least assisted by, an organisation called Relatives for Justice, at which time a further, amended version of the booklet was produced.

The content of the booklet

5.11 Witnesses were questioned on the content of this publication, particularly because it purported to provide (anonymised) eyewitness accounts of events or about the time of the shootings with which this inquest is concerned. The inquest also received some evidence about the writing and publication of the booklet.

5.12 As alluded to above, one of the potentially significant issues arising in relation to the booklet is the fact that there appears to have been a number of different versions, with changes being made to the content as between different versions. In summary, the case made on behalf of the MoD was that certain content within the earliest version of the pamphlet corroborated its case (and the case made in the ciphered statements) that there was civilian gunfire directed towards Corry's Yard at or about the time when fire was returned and the deaths occurred or may have occurred. Moreover, the MoD assertion was that this version of events, closest in time to the actual circumstances, should be taken to be more accurate than later versions of the booklet which removed statements which did not fit with the prevailing community narrative, or a narrative which some wish to promote, namely that the army fired on unarmed civilians without provocation or justification.

5.13 As noted above, a central purpose of the publication appears to have been to advocate for a full and independent inquiry into the relevant events. The first version of the booklet appears to have been produced in or around 1992. The foreword refers to the need for a full and independent investigation "twenty years later", that is 20 years after the incident on 9 July 1972. The foreword to this version refers to the booklet being "by the people of Springhill" in order to document the events surrounding the killings. This version has a photograph of an armed soldier, seemingly in front of the wall of Corry's Yard, on the cover.

5.14 There is then a later version of the booklet which, on its face, appears to have been organised by, or published under the auspices of, the Springhill Massacre Committee. The end of this version of the booklet bears the committee's name with the date of June 1999, although anyone seeking further information is also advised to contact Relatives for Justice (whose contact information is then provided). The introduction to the booklet is also written by Mr Mark Thompson of Relatives for Justice. The 1999 version is entitled 'The Springhill Massacre - Belfast's Bloody Sunday'. It bears a sketch of each of the five deceased on the front cover. The foreword of the publication again notes that the booklet is "by the people of Springhill" to document the events.

5.15 Each version of the booklet contains contributions from close relatives of the deceased; a map of the location with various points plotted where incidents are said

to have occurred; contributions from survivors of the incidents; and anonymized accounts purporting to be from eyewitnesses.

5.16 For present purposes, I will describe some of the content of the 1992 version of the booklet, which appears to have been the first. The booklet suggests in the foreword that the IRA “disclaimed involvement in any *initial* shooting” in the area. It goes on to explain that the event which marked the end of the IRA ceasefire occurred in the Lenadoon area and “it was to this area that most of the IRA units went to engage the British”. Quoting from Mr de Baroid’s book, a local IRA volunteer is reported as having said that it took a while for others to get organised and that most of them had to get back from Lenadoon.

5.17 The booklet also said that, when the shooting was over, the IRA issued this timetable of events, which is then set out:

“9.50 pm – Two shots were fired from sniper No. 1 in the (Corry’s) timber year. He fired at two cars. One car reversed and the other moved forward to the cover of a bungalow. As the occupants got out of the cars, sniper No. 1 opened fire again with approximately 14 shots. Martin Dudley (19) was hit in the back of the head and seriously wounded. The other passengers were pinned down for approximately 90 minutes.

9.53 pm – Mr Paddy Butler (38) ran to get a priest for Martin Dudley.

9.55 pm – On hearing the shooting and seeing Martin Dudley’s body lying in the street, John Dougal (17) and Brian Pettigrew (17) ran towards the wounded man. At this point, sniper No. 2 opened fire killing Dougal and seriously injuring Brian Pettigrew in the chest.

9.57 pm – Father Fitzpatrick and Paddy Butler arrived on the scene. They were accompanied by David McCafferty (15). Someone then shouted out that a young girl had just been shot and that they needed a priest. She was Margaret Gargan (13) who had been shot dead by a third sniper further down Corry’s shed. Father Fitzpatrick and Paddy Butler ran from the cover of the house. Sniper No. 1 opened up and shot the priest, the same bullet passing through him killed Mr. Butler. Young McCafferty attempted to drag the bodies to safety but he was hit several times by sniper No. 1 as he bent over Father Fitzpatrick.”

5.18 It will be immediately apparent that this timetable bears very significant similarities to the article published in *Republican News* in July 1972, discussed above. There are a number of relatively small amendments, for instance changing the age of Margaret Gargan and correcting David McCafferty's name, as well as some other modest changes. These include excising the references to the accompanying sketch in the original article; and (for instance) changing the reference to David McCafferty's injuries. In essence, however, the same version of events is presented as in the earlier article.

5.19 The foreword to the booklet goes on to discuss some news reports from the time including, in particular, two reports from the front page of the 11 July 1972 edition of the *Irish News*. One included a claim from the army that they had come under fire from gunmen and had returned fire with one "hit" claimed; after which they were fired upon later, with fire returned and six "hits" being claimed on that occasion. The booklet notes that local people discounted such claims, saying that there were no shots fired either from the Springhill or Ballymurphy estates. The second report referred to the potential involvement of the UDA in the shootings, with a reference to three UDA men being seen leaving the timber yard the following morning, with early morning workmen seeing them disappear in the direction of the Protestant Springmartin estate. The booklet notes that local people believed this story to be a product of the British Army Press Office. A third press report which is outlined refers to the inquest which was held in 1973 and the submissions made by counsel on behalf of the Ministry of Home Affairs. These various reports are discussed in further detail in Chapters 3 and 7 respectively.

5.20 The booklet then had a number of sections and contributions. A poem written by Martin Dudley is included. There is then a section entitled, 'The Women Speak'. This contains contributions from Nelly Gargan, the mother of Margaret Gargan; Nora McCafferty, the mother of David McCafferty; Mrs Dougal, the mother of John Dougal; and Margaret Butler, the wife of Paddy Butler. The next section is entitled, 'The Survivors Speak'. This contains attributed contributions from Brian Petticrew; Martin Dudley; Kate Donnelly; and Robert Russell. I do not propose to set out the full detail of these accounts or contributions here. They are discussed in other parts of this ruling where relevant: for instance, where the account is the only account, or one of the few accounts, available from the relevant person; where a witness was questioned arising out of their contribution to the booklet, or a contribution from someone else in the booklet also relating to the events described by them. Accordingly, reference to most if not all of these accounts is included in Chapters 9-11, as appropriate. All of them have been read and taken into account by me.

5.21 The booklet contains a map of the area with relevant markings and a legend. This is different from the sketch which accompanied the *Republican News* article referred to above. It appears to have been produced from an official or ordnance survey map with numbered locations indicated. These include where each of the relevant persons were shot; a number of houses where the injured were taken; the

electricity sub-station; the “flat above Mary’s shop where Jim Bryson tried to dislodge army sniper’s with Lewis gun”; and an ambulance location. The approximate position of British army snipers are marked with three ‘X’s along the southern wall of Corry’s Yard. The position of two cars are also marked with black boxes. A copy of this map was provided to many witnesses for reference. It is unclear who produced it or when.

5.22 In the ‘Survivors Speak’ section of the 1992 version of the Springhill Massacre booklet, there were then four anonymised accounts purporting to be from eyewitnesses: Eyewitness One, Eyewitness Two, Eyewitness Three and Eyewitness Four. The later version or versions of the booklet appear to have the account from Eyewitnesses One and Four removed. The accounts from Eyewitnesses Two and Three remained but were re-numbered to Eyewitnesses One and Two. This is a matter upon which the MoD placed some reliance. For ease of reference, I have tried to consistently use the titles given to these eyewitnesses in the 1992 version of the pamphlet. I summarise, or set out, the content of these accounts below.

5.23 After those accounts there is a tribute by Fr Des Wilson to his colleagues Fr Noel Fitzpatrick and Fr Hugh Mullan, the latter of whom was shot dead by the army in Ballymurphy in August 1971. The 1992 version concluded with acknowledgments to those injured and the families and friends of those killed for their cooperation; to Des and Noelle for the use of the Springhill Community House; to Gerry Adams for his help and assistance; to Anthony McCabe; and to the people of Greater Ballymurphy, without whose help and support it was said that this small publication, and the memorial plaque, would never have been possible.

Eyewitness One

5.24 In the 1992 version, the account provided by Eyewitness One is from someone who had initially been standing at ‘Provie Corner’ in Ballymurphy, described as being at the junctions of Whitecliff Parade, Ballymurphy Road and Ballymurphy Crescent. He (assuming it to be a male) was discussing with others whether it was true or not that the IRA ceasefire was over, speculating on what would happen if it was over since, in the witness’s own words, they “were hardliners”. Eyewitness One said that someone came and told them that snipers had opened fire from Corry’s Timber Yard and that as many people as possible were needed. Although those there were only 15 years old and “only members of the Fianna for several weeks” they agreed to help. They made their way through the back gardens and alleys towards Springhill. The writer was not sure of the exact time but said it was still very bright and most people were only wearing light summer clothes.

5.25 Eyewitness One’s account continued that, when they reached Springhill, most people were lined against the gable walls of the houses facing Corpus Christi. A car was parked in the middle of Westrock Drive. A further anonymous person (X) was behind the electricity box between the houses in Springhill and the bungalows in Westrock. He had a revolver and “must have had plenty of spare ammunition

because every now and again he was firing all the rounds in the revolver towards Corry's". People were talking about dead and wounded being trapped in the Petticrews' bungalow.

5.26 Eyewitness One said that "at this time" the only people he saw in Springhill who had weapons apart from X were "the Sticks" (members of the Official IRA). This included 'Y' (a further unidentified person) who had a 'grease gun' and "had just emptied a full magazine into Corry's" but didn't know how to re-load. Eyewitness One's friend took the sub-machine gun off Y, filled the magazine and cocked the weapon, but Y would not let him fire it. Eyewitness One said that "at the same time Jim Bryson came onto the scene" and told all the 'Sticks' to go; but the Sticks "were definitely out operating that night", even though they were supposed to be on ceasefire.

5.27 The witness account continues that the writer could remember Fr Fitzpatrick coming on the scene and people shouting at him to park his car at the shops, which he did. He then made his way to where they were all standing and he was then told how to get to where the dead and wounded were. He ran over to the Springhill houses on the right-hand-side of Westrock Drive. As he was running he was waving a large white hanky. Eyewitness One said he could remember this because 'Z' (a third unidentified person) was "laughing at the hack of the priest trying to run for cover while waving his hanky". The sniping was constant and everyone had to be extremely careful running between the houses.

5.28 Word then came over to their side of the road that more people were needed on the other side. "While other people all opened fire simultaneously" several of them ran out across the road. When they got there, they found out that there were several dead in a house and one man lying dead between the houses. (It is unclear to whom this is referring but it might well be Fr Fitzpatrick and David McCafferty, whose bodies had been removed to houses; with Patrick Butler's body continuing to lie between the houses.)

5.29 Eyewitness One and his mate then ran and got a stretcher out of an ambulance that had just arrived on the scene and went towards the last house between Springhill and Westrock. At the house, the living-room window was opened and a body was passed out towards them. Running back towards the ambulance, Eyewitness One realised that it was McCafferty and he was obviously dead. At this, Eyewitness One "burst out laughing" which he later put down to nerves. When they had left him in the ambulance, they ran back to the square. As the writer passed Mary McVeigh's living room, she opened the window and asked him why everyone was running. She said she had been watching television. Eyewitness One asked her if she had heard the shooting and she said that she had been watching the television and heard nothing else. He then pointed out Paddy Butler's body to her and told her to get her kids out of the front rooms and move them to the back of the house.

5.30 The account continues that, “During all this time more and more people were obviously coming into Springhill/Whiterock with more weapons as the firing from the Brits side became more heavy and sustained”. Eyewitness One and Z ended up carrying a big green cloth bag full of ammunition for Tommy Tolan and Mick Clarke who had a rifle and a sten gun. Both of these men were described as IRA volunteers. Eyewitness One and Z “also acted as runners for them”. He said he could not remember how the night ended for himself.

5.31 Eyewitness One’s account then goes on to describe the next day, Monday. On that date, sniping from Corry’s was not as heavy and became very sporadic. He and Z headed for the bungalows where people were using the path that ran alongside Corrigan Park wall to move about the district. Now and again the snipers would take pot shots at people moving along the path. At one stage a woman came along pushing a pram and holding another child by the hand. At an agreed signal, “All the ‘Boys’ gave cover fire” while Eyewitness One and Z lifted the pram. They made it to the cover of the houses in Springhill. Eyewitness One’s mate X also about the same time ran out under heavy fire to drag an elderly man to safety who had been wounded in the neck; and also ran out to retrieve an ice-pop that had been dropped by Geraldine Clarke on her way back from the house shop.

5.32 This account also says that, on the Monday or Tuesday, Jim Bryson got up on the roofs of houses closest to Corry’s wall. He had a Lewis gun and 12 pans of ammunition for the machine gun and he “sprayed all the wood yards in Corry’s”. Eyewitness One could not remember exactly but thought that this heavy firing from a machine gun put an end to the sniping from the wood sheds.

5.33 Attempts were made throughout the inquest preparations and evidence hearings to identify Eyewitness One and the other anonymised persons in the booklet, including the additional unidentified persons in this account. These attempts were successful in respect of Eyewitness Two. The result of my consideration of this issue in respect of the other eyewitnesses is discussed below. It was unfortunately not possible to ascertain who persons X, Y and Z specified in the account of Eyewitness One were.

Eyewitness Two

5.34 Eyewitness Two (Eyewitness One in later versions) said that he was going with a mate from Springhill into Westrock when shooting broke out. As the shooting got heavier they “all hit the deck” and were lying along Joe Herald’s, whose was the first bungalow heading down the left-hand side in the Springhill. Someone was lying further up Springhill in a pool of blood. He heard later that this was Martin Dudley. As they were lying there they looked across and saw another two blokes heading towards them and shouted to them to get back. One of those was John Dougal. All Eyewitness Two saw was the back of them turning to run back again and then there was a heavy burst of gunfire. The witness learned later on that one had been killed and one was wounded.

5.35 Eyewitness Two said that they lay there for a long time. There was a steel lamp-post beside the electricity box at the side of the bungalow at which they were lying. The snipers were trying to play the bullets off the lamp-post down towards them but they did not succeed. The snipers also fired through the bungalow. They were lying there for a long time and heard running behind them. They thought it was the army coming up behind them but it was not. It was “a guy from Westrock, Denis Deveney”. He had a white shirt on and he was covered in blood. They asked him what was happening and he said that a girl had been shot, referring to Margaret Gargan. Mr Deveney had come up to find out what he could do and they told him to get away for his own safety.

5.36 The account of Eyewitness Two continues to say that, next, a priest came. He thought the priest was Fr McCaul. The firing got heavier and heavier and they heard a lot of shouting going on in Springhill. There were more people hit over at the corner where the Fosters and Billy Mills lived. They did not know anything where they were lying. All the witness knew was that that the shooting was very, very heavy. They learned later on that “it was a kid from Ballymurphy called Dee McCafferty”. He was hit and the priest and Paddy Butler who lived in Westrock had gone round to try and aid the ones who were wounded at the front of the Petticrews’ bungalow and also at the side of the Fosters’ house.

5.37 The account continues by expressing the view that the snipers that day in Corry’s “had very accurate fire”. It was a bright evening. The witness could not remember what time it was but the sniper seemed to be watching the reflections in Billy Mills’ window. He was just facing where the priest and Paddy Butler had come round the corner. He seemed to wait on their coming to the corner and as soon as they put their heads round the corner that is when he shot them. There were still “plenty of rounds stuck in Billy Mills’ wall” where the snipers tried to play the rounds off it and down the opening in front of Mrs Donnelly’s and Tommy Doyle’s house. Eyewitness Two could not say how long they were lying there for. It seemed like hours but he just could not put it into time. The ambulances started to arrive and started to take the dead and injured away and they were still lying trapped along Joe Herald’s.

5.38 Someone sent an ambulance over to them and it parked up the curb beside them. The ambulance driver told them to jump into the back. They were reluctant to do so at first because they thought as soon as they put their heads up the snipers would have “dropped” them; but they ended up jumping into the back of the ambulance and lying down on the floor, just in case the sniper would do with the ambulance what he had done with the cars. They got down into the Whiterock and the ambulance driver let them off at Shannon’s Shop and they made their way back into Springhill via the Whiterock Road through St John’s, Corrigan Park, over the wall and into Springhill again.

Eyewitness Three

5.39 Eyewitness Three (Eyewitness Two in later versions) provided a short account which can conveniently be set out in full:

“There was trouble that day so there was. There was an awful lot of panic and they were shooting at anything that moved. We were in the Centre where Margaret used to work. We were only sitting talking you know the way wee girls talk about things. Next thing she fell down. We never heard the shot. Within a couple of seconds she was lying on the ground.

It all happened so quick. Then everybody started to scream. A couple of others tried to get down but they were still shooting. Then we got pulled in. There was still shooting and it was a while before Margaret’s body got pulled in. Her body was left lying there, there was no movement, nothing. It just happened like that. She fell and we just screamed and the next thing we got pulled in. Denis Deveney and a couple of other ones tried to get us. We were sitting beside hedges and Denis tried to get over a couple of times. They were shooting down the street, nobody could get from anywhere. When they got Margaret’s body they had to bring her down the back way to get her to the ambulance, but she was dead so she was. She lay there for a long while before anybody could get at her.”

Eyewitness Four

5.40 The account from Eyewitness Four can similarly be set out in full:

“It was a bright evening and me and a couple of mates had made our way up through the bungalows. There was a heavy gun battle going on. We saw all these fellows standing at the corner and one said to us there was a body lying in the garden so me and another bloke crawled across.

The British Army was continuing their fire at this stage shooting into all the bungalows. I ran to try and retrieve the body. I didn’t know at the time it was a young girl lying there. The British Army fired at us, but thankfully local IRA Volunteers came and gave us covering fire so we could get to the body. We lifted the body and brought it

out onto the street. It was then that I realised she was a young girl. There was a couple of 'Sticks' (OIRA) heavily-armed standing doing nothing at the corner. One of them had a car. We asked them to run the body to the hospital, but they refused. They just didn't want to know. At this stage an ambulance arrived. We ran through heavy fire towards the ambulance. There, a local woman identified the body as Margaret Gargan.

It was later on that night that I noticed that there had been a couple of bullet holes in my coat. It was then that it dawned on me how close I was to death myself. I've heard different stories from the media and church alleging what happened that day, but it was all lies. I was there, the Brits shot dead five innocent people before the IRA even had a chance to return any sort of fire and the only reason the IRA came out was to defend the people."

The changes between versions

5.41 As already mentioned, there are a number of material changes between the 1992 version of the booklet, described above, and the later versions. The 1999 version provided by Relatives for Justice has the same acknowledgements as the previous version (see para 5.22 above) as well as additional thanks to Kelvin Boyes for photographs; to the *Ireland on Sunday* for the use of an article (written by Anne Cadwallader, which was a new introduction to the booklet); and to Joe Baker for the layout of the publication.

5.42 This version has a further page at the back outlining the 'Aims of Campaign', including "a full, public comprehensive and binding acknowledgement by the British Government that these killings were unlawful"; an official apology; an inquiry to establish the full facts and identification of those responsible for authorising and carrying out the killings; and an immediate process of "restoration and reparation to the bereaved relatives and the injured". Some insight might be gleaned into the community view of the events - or at least those involved in or associated with the campaign to which the booklet is connected - in that a full acknowledgement of illegality and an apology are sought at the same time, or in advance of, an inquiry "to establish the full facts".

5.43 Finally, the 1999 version contains a short epilogue signed off on behalf of the Springhill Massacre Committee and dated June 1999 in the following terms: "This short booklet contains an outline of the murders of Paddy Butler, John Dougal, David McCafferty, Margaret Gargan and Father Noel Fitzpatrick and the wounding of Martin Dudley and Brian Pettigrew. This is the story of Belfast's Bloody Sunday. On behalf of the community visited by this murderous atrocity carried out on a sunny evening on July 9th 1972 by British forces, we, in the name of justice, demand

a full and independent inquiry.” The address and telephone number of Relatives for Justice is then included to be contacted for further information.

5.44 The most obvious changes to the booklets, between the 1992 and 1999 versions, are (i) the inclusion of a new ‘Introduction’ by Mark Thompson of Relatives for Justice; (ii) the removal of the eyewitness accounts attributed to Eyewitness One and Eyewitness Four; and (iii) the inclusion of the Cadwallader article from the *Ireland on Sunday*.

5.45 The removal of the two anonymized eyewitness accounts is significant, in my view, since it removes some of the key references now relied upon by the MoD as supporting its case in this inquest. These include references to “hardliner” members of the Fianna making their way to Springhill at or around the time of the shootings; to their having seen armed civilians in different locations, with a revolver and SMG respectively, firing significant numbers of rounds at Corry’s Wood Yard; to OIRA members being out operating that night; to Jim Bryson shortly coming on the scene; to others opening fire simultaneously, permitting civilians to cross the road; to Tommy Tolan and Mick Clarke arriving later, armed with a rifle and sten gun; and, at another location (likely close to where Margaret Gargan’s body was recovered), to local IRA volunteers giving covering fire at the army.

5.46 Many of the other remaining interviews or accounts which had been contained in the first edition of the booklet were also amended. Frequently, these amendments are minor, corrective in nature and/or obviously intended to streamline the text. There are a range of details which have been removed and it is difficult to appreciate why. However, I also discerned a further trend that some information was removed which might suggest unlawful activity or violence on the part of civilians, or which identified other persons present, or which might support a narrative inconsistent with other aspects of the booklet. By way of example:

- (i) In Nora McCafferty’s contribution, the reference to David McCafferty being a member of the Official IRA Junior Wing was removed.
- (ii) In Mrs Dougal’s contribution, the reference to the shooting still going on about ten o’clock or after ten was removed.
- (iii) In Margaret Butler’s contribution, there are a range of details which are removed. These include the reference to one of the ‘Sticks’ or ‘ex-Sticks’ coming in and complaining that someone else “wouldn’t even let you have a shot of their guns”; the reference to “big John Moore” being present and coming back to speak to her later as the night went on; the reference to Billy Macklin being a witness at the inquest; the reference to the army accusing Patrick Butler, Fr Fitzpatrick and Dee McCafferty of carrying weapons; and the statement that “Wee Dee McCafferty was with him and that’s how it happened”, that’s how Patrick Butler “got it”.

- (iv) A number of charges were made to Brian Petticrew's account. One includes amending a reference which suggested (in the original version) that about half an hour after Brian Petticrew was shot "there was a full scale gun-battle raging". The words "at this stage" were removed and the new text indicates that, "*Several hours after* the killings there was a full scale gun-battle raging" (italicized emphasis added).
- (v) In Kate Donnelly's account, the references to Fr Donnelly coming into her house and taking everyone's confession and giving them absolution "to get themselves prepared", and to his giving absolution "to all the fellows that were active that night", were removed. So too was the reference to people having "lost a gun" which they were "running about all over the place looking for".
- (vi) In Eyewitness Two's account (which became that of Eyewitness One in the later edition) reference is removed to the witness learning later that Dee McCafferty was hit and the priest and Paddy Butler had gone round to try and aid the ones who were wounded at the front of Petticrews' bungalow and *also* at the side of Fosters' house.

5.47 I am bound to say that at least some of the changes between the original version of the booklet from 1992 and later versions in or after 1999 appear to constitute a fairly crude and cynical attempt to airbrush out of the text important, or at least potentially important, details surrounding the events on 9 July 1972. In submissions this was referred to, with justification, as 'sanitising' the text of the booklet to some degree. The introduction to the 1999 version of the pamphlet complains of "selective amnesia" on the part of others; but, in my view, this is a charge which might also legitimately be levelled at the producers of this version of the booklet in light of the changes which had been made to it from its original version.

Production of the booklet

5.48 There is still a lack of clarity as to precisely how each version of the Springhill Massacre booklet, and in particular the first version, came to be produced. In the scheme of things, this is not a particularly important aspect of the territory covered by the evidence in the inquest, save that it hindered me identifying with any certainty some of the individuals who gave the anonymized eyewitness accounts (and, therefore, the anonymous individuals referred to in the account of Eyewitness One), all of whom would potentially have been important witnesses from whom I would have wished to hear, if they were still alive and available. It is possible that I did hear from some or all of these persons; but I simply cannot know that. Save for Gerard Heath (who said he was Eyewitness Two) and Rosemary Heath/Kennedy (who thought she may be Eyewitness Three - but see below), no one who gave evidence identified themselves as being one of the anonymous persons referenced in the booklet.

Anthony McCabe's evidence

5.49 Anthony (Tony) McCabe gave evidence to the inquest on 11 April 2024 and provided some details about the production of the booklet, in which he was involved. Mr McCabe was only 13 years old on 9 July 1972 and lived at 80 Whiterock Gardens. He had no prior awareness of the events until his father returned home and told the family about shootings and that people were injured and dead in Westrock. His only involvement that night was helping his father break a hole in the wall of Corrigan Park to allow people to escape. His father later carried injured and dead individuals to an ambulance. His evidence about the shooting on 9 July is indirect and limited.

5.50 On 10 July he saw persons shooting from the embankment at Corrigan Park but initially asserted his privilege against incrimination in relation to any further questions; yet he nonetheless stated that he could hear they were shooting from around 96-114 Whiterock Gardens and saw shooting from Corrigan Park. There were one or two persons using bolt action rifles. He said he did not know the identity of those involved and also that there was return fire from Corry's Yard. He was given the identity of one of the persons firing from Corrigan Park - Jim Bryson - in and around the time of creating the pamphlet in 1992.

5.51 Around the 20th anniversary of the shootings in 1992, while teaching local history, Mr McCabe said that he created a booklet. A number of his students had assisted with it. Its purpose was to remember the victims and bring attention back to the event which had been overshadowed by the Ballymurphy shootings. He emphasised that it was not political at all in his view; and the booklet was created "for the families".

5.52 In his evidence, Mr McCabe clarified how the booklet was produced. Accounts were given verbally by families and witnesses, written down by him, edited grammatically, and then returned to the contributors for approval. Although described as participants' accounts, McCabe effectively authored and edited the text. He emphasised that it was not designed to be a "forensic examination". In answer to questions from Mr Aiken, however, he accepted that accounts would be checked for accuracy and that the contributors (such as Mrs Gargan and Mrs Butler) would have an opportunity to correct it. (By way of example, Mr McCabe confirmed that Mrs Butler had told him about the individual complaining they "wouldn't even let you have a shot of their guns"; he said he was not going to redact the words and it was checked.)

5.53 When asked why Eyewitness One was not named, Mr McCabe said this was obviously because they did not want their name mentioned. He thought this account was handed in and just copied into the booklet. He said some of these accounts were handed in and others would have come and talked to him but some people did not want to be named; otherwise, he would have put their name in the pamphlet. Mr McCabe said that Eyewitness Two was Gerard Heath and that he had

been interviewed. Mr McCabe remembered some of the things that he had said about being trapped and getting out in the ambulance. Mr McCabe was not sure now who Eyewitness Three was but thought it was possibly Rosie Heath. He could not remember and was not firm on this.

5.54 Mr McCabe did not know who Eyewitness Four was but believed it was either Brian O’Kelly (then referred to as ‘SC3’) or Liam Stone (then referred to as ‘SC6’). This was an account which had been handed in rather than compiled by way of interview. He said if he had conducted an interview, the account would have been longer. He thought Eyewitness One may have been Liam Stone, which would make it more likely that Eyewitness Four was Brian O’Kelly. He said he never spoke to either of these individuals. He thought both handed statements in. He did not know who the persons X, Y and Z were, referred to by Eyewitness One, and did not ask; he did not want to know names. He had not spoken to Mr O’Kelly in a long time but there was something in his mind that Mr O’Kelly had carried one of the bodies (which appeared to be why he thought Brian O’Kelly may be Eyewitness Four). At one point he said that Mr O’Kelly had been telling him about someone who carried a body, Denis Devenney, and that it was possible that he was Eyewitness Four. He thought Mr O’Kelly had told him something similar; but he could have been referring to the body of the priest or young McCafferty. He was also not sure if there had been an interview in relation to Eyewitness Three or not.

5.55 When dealing with these matters, I was concerned that Mr McCabe was somewhat confused and potentially unreliable; and it was difficult to gauge whether he was being deliberately vague or whether he was simply struggling to remember given the passage of time. On balance, I think it was probably the latter since he was content to name the names of persons he thought were the anonymous eyewitnesses; and I accept that he had not had occasion to consider the pamphlet again for many years.

5.56 Mr McCabe said the main contributors were Mrs Gargan, Mrs Dougal, Mrs Butler, and Mr McCafferty. They provided accounts, photographs, and approved the content. Fr Des Wilson provided the venue at Springhill Community House and provided a tribute to Fr Fitzpatrick. Local witnesses either approached him or were approached by him, such as Brian Petticrew. Brian Petticrew provided the account concerning himself; and Mr McCabe thought that he had had an opportunity of looking at it and agreeing it. Martin Dudley also provided an account (assisted by his wife), which Mr McCabe said was more difficulty because of his speech. Kate Donnelly and Robert Russell also gave the accounts attributed to them.

5.57 Mr McCabe noted that there were very few direct eyewitnesses to the shooting; and that most accounts related to the aftermath rather than the event itself. I found that interesting since there were quite a number of witnesses in this inquest who purported to have been direct eyewitnesses. It suggested to me – assuming the correctness of Mr McCabe’s view – either that some individuals may now be providing evidence of things they had not seen or, perhaps more likely, that some

witnesses did not want to come forward at the time of the pamphlet being produced or were unaware of that process. He did mention that there was a variety of reasons why people might not want to give evidence including not wanting to re-live the past and “difficulty with the law and stuff like that”.

5.58 The witness stated that Mr Butler, Fr Fitzpatrick, and Margaret Gargan were not involved in (unlawful) organisations. John Dougal and David McCafferty were said to be connected to Fianna; but Mr McCabe learned this only in 1992, not in 1972. He said when producing the pamphlet, he became aware of these connections on the part of both David McCafferty and John Dougal and that their families were open about this.

5.59 Mr McCabe identified three versions of the pamphlet, each of which was appended to his statement. The first was the original version he created around 1992. The second had a different cover but the same core content. He said he did not know who produced it. The third contained additions to accounts and reworked the eyewitness sections. He said he was not informed of these changes and did not know who made them. In his oral evidence, he dated the versions. The version stating “20 years later” was likely the original from 1992. The version stating “27 years later” was a later version from around 1999, associated with Relatives for Justice and expanded publication.

5.60 The pamphlet was originally handwritten and then typed up by someone in the Community House, he could not remember who. After printing the original booklet, he thought each family got a copy and one was in the Central Library. Mr McCabe himself did not retain a copy and had not seen a copy for 30 years. In his evidence he said that the pamphlet was “done and dusted” within about three weeks. He also commented that nobody seemed to talk about the incident afterwards and it was not debated: “it seemed to just go away”.

5.61 When being questioned by MoD counsel, Mr McCabe indicated that there had been some stuff left out of the pamphlet because some people gave statements and others later said that the maker of the statements were not present at the relevant time. This was checked with the people in the Community House who *had* been there. So he accepted that the resulting pamphlet was an edited selection to capture the “essence” of the matter; and he left out accounts which he considered to be untrue. He could not remember now who had provided such accounts.

5.62 Returning to the edits made in later versions, Mr McCabe emphasised that he had no role in these and received no notification of the changes. He suggested the changes may reflect the passage of time and witnesses becoming more open. (I did not find this suggestion credible given that little was *added* to the accounts and, rather, material was removed.) Mr McCabe was critical of later versions for altering eyewitness numbering, which no longer matched his original witnesses.

5.63 He disputed the placement of individuals such as Jim Bryson, stating that his sources did not place them at the scene that night. He also rejected claims of IRA presence on 9 July 1972, stating that none of the witnesses he interviewed placed the IRA at the scene. He rejected claims that the IRA provided cover fire; and said this was supported by his wife's account. He also said that he spoke to Thomas Ramsey (while being interviewed by coroner's investigator) to confirm that Jim Bryson had not been present on 9 July. From the accounts he collected, Mr McCabe concluded that there was no firing from Corrigan Park on 9 July. He stated that firing came from the yard, not the Westrock estate; and that IRA activity involving shooting from Corrigan Park occurred on 10 July, not 9 July 1972.

Other evidence

5.64 In his second witness statement, Harry Gargan also provided some information about the Springhill Campaign Group and the Springhill Massacre booklet. He said the support group was set up in 2019, when the present inquest was due to commence. (I note in passing that this inquest was never scheduled to commence in 2019 and had not been allocated to a coroner at that time; it may be that this was a reference to the year when the Lord Chief Justice's 5-year plan in respect of outstanding legacy inquests was established.) Mr Gargan said that the group wanted to highlight public awareness of the Springhill shootings as they never received any publicity and the shootings in Springhill were "always in the shadow of the Ballymurphy enquiry". A Facebook page was set up and Mr Gargan was the spokesperson for the group.

5.65 Mr Gargan's evidence was that he was not a member of (what he referred to as) "the Springhill Committee" which was involved in publishing the Springhill Massacre booklets. He also did not believe his father was a member of this committee. He said he did not know any members of the committee. He knew that, in the 1980s, his father did try to set up a support group with Mrs Dougal and Mr McCafferty "but they had little to no support so it fell by the wayside". There had, however, been yearly memorial events at the memorial garden for his sister Margaret and the other victims of the shootings. For many years, Mr Gargan could not face attending these. He said that he did not get involved in anything to do with Margaret's death until he was approached by the HET in the early 2000s, when his father asked him to engage on his behalf.

5.66 Mr Gargan said that he did recall seeing a book like the 1999 version of the booklet in the 1980s but did not read it, as he could not face reading it at that time. (If Mr Gargan is correct that a version of the booklet was available in the 1980s, it may well be that there was an earlier version than that which appears to be the earliest available to the inquest, namely the 1992 version. I do not believe though that I received any other evidence to support this.) Mr Gargan was aware that his father and mother had contributed to the book but did not know who they met with. A photograph at the back of the booklet (in the later versions) showed a memorial

event with his father, Jacqueline Butler, Martin Dudley, David McCafferty and Mrs Dougal.

5.67 Mr Gargan said that he had never seen the 1992 version of the booklet until it was presented to him at court when he was providing evidence. He did not know the identity of Eyewitnesses One to Four. He said that he had no information as to how the book came about or who published or wrote about it.

5.68 There is, however, a photograph published in the *Andersonstown News* on 8 August 1992 with a short report in relation to the launch of the booklet under the title 'Inquiry call marks Springhill book launch'. The report notes that the booklet had been launched and there had been a call for a full inquiry into the deaths of "four West Belfast people", Margaret Gargan, David McCafferty, Patrick Butler and Fr John Fitzpatrick. (Curiously, the wording of the article appears to suggest that there was not a call for an inquiry into the death of John Dougal.) The article goes on to say that, "The new booklet is an eyewitness account of what happened that night and provides ample material to support claims for the opening of a public inquiry, say victims and victims' relatives." Five people are pictured in the photograph, several of whom are holding copies of the 1992 version of the pamphlet: Brian Petticrew, Martin Dudley, Mrs Dougal, Mr Gargan (Harry and Margaret Gargan's father) and Mr McCafferty.

5.69 Another press article from 23 July 1992 which was made available to the inquest quotes liberally from the content of the booklet. It refers to a community commemoration rally in Springhill to remember the deaths and the unveiling of a marble plaque, attended by around 200 people and addressed by Fr Des Wilson and Pat McGeown of Sinn Féin. Local people were demanding an inquiry into what happened and indicated that, if the government did not hold one, they would have their own. This is likely the genesis of the process culminating in the St Aidan's Inquiry discussed in Chapter 7. This report notes that, "To put the British army killings of 9 July 1972 back on the agenda the people of Springhill are publishing a booklet, *The Springhill Massacre*, which will be launched at the West Belfast Festival in the first week of August." It explains that the book contains recollections of bereaved relatives, the injured and eyewitnesses. The *Féile an Phoball* programme suggests that the booklet was then launched on Tuesday 4 August 1992 at the Springhill Community House. It is described as "written by the people of Springhill".

5.70 Turning to the launch of the 1999 edition of the booklet, an article from *An Phoblacht* of 24 June 1999 indicates that this took place at the Long Gallery in Parliament Buildings, Stormont, on 22 June 1999. Other press reporting suggests the launch was by survivors, bereaved relatives, West Belfast MP Gerry Adams and Fr Des Wilson. Irene Sherry was named as a campaign spokesperson.

5.71 Jacqueline Thompson (née Butler) gave the pen portrait of her father, Patrick Butler (deceased). In addition, she provided a short witness statement to the

inquest. At the time he was shot she was only 18 months old. She was therefore unable to give any direct evidence of relevance to the events of that day. She has, however, been part of the campaign to have a further inquest into the deaths for many years. She said that, from 1999, Relatives for Justice had supported her family and others in this regard. She acts as her family's spokesperson and, as a result, has attended many events over the years related to these matters. She had worked with RfJ in this regard. She was not, however, a member of the Springhill Committee. (She lives in North Belfast and is only now in West Belfast infrequently). She said that she did not know who ran this group or what they did. She is a member of the current Springhill Support Group, along with the other Springhill families (the Gargans, Dougals, and Mr McCafferty).

5.72 Mrs Thompson was shown a number of versions of the Springhill Massacre booklet. She said she had seen the 1992 edition many years ago in her mother's house but that she had not read it. She had contributed to a 1999 edition and repeated her mother's story. However, she said that she could not recall when she did this or who she spoke to. She had seen a further version of the 1999 edition but said she did not own one. Her evidence was that she did not know who had written and published the booklets, although RfJ was mentioned in one of the versions shown to her. She said she did not know who Eyewitnesses One to Four were.

5.73 Diarmud Donnelly (Kate Donnelly's brother) also provided evidence to similar effect. He is a member of the current Springhill/Westrock Massacre Campaign Group which was set up in 2019 to provide publicity in relation this inquest and memorial events. Mr Donnelly said he had no dealings with previous Springhill Committees. He did not know who established them or who were members. He said that he was aware of a Springhill Massacre book, which is small and has a glossy cover, but did not know about other versions in pamphlet form. He was aware that Tony McCabe may have assisted with the original book but did not know who else was involved with the book or who produced the pamphlets. He said he did not know of any of Eyewitnesses One to Four from the book; but he did know some of the other named contributors, such as his sister. He also said that he could not assist with evidence about the St Aidan's School Inquiry as he had no part in it.

5.74 Similar evidence was provided by Natasha Butler, Patrick Butler's granddaughter, who is also part of the support group formed in 2019 after the Ballymurphy Inquest. She emphasised that this group's purpose was not to speak to witnesses but to raise awareness. She also had no knowledge of the earlier Springhill Committee Group or who ran it. She too could not assist in relation to the publication of the Springhill Massacre booklet, or who wrote it or published it. She was unaware that there were three different versions. She had not seen the 1992 version until she received disclosure from the LIU and she had not read it. She described the version provided by RfJ as "the proper booklet" which she had read in the past.

5.75 A number of witnesses who provided evidence were asked about the production of the booklet either because they had provided an account or contribution which was published in it, or a close relative of theirs had done so, or because they were a possible candidate as one of the anonymized eyewitnesses. A range of evidence was provided by such persons, most of which was of little assistance in clarifying precisely how the booklet was put together. For instance:

- (a) Catherine Donnelly said she remembered being interviewed for the booklet although she could not remember when or by whom. She thought it was by a local person, somewhere in the area where she was living. She said that she was interviewed on her own by a younger man, who took notes. She confirmed she did give the account that was recorded and attributed to her in the booklet and that this was the first interview she had given about what she had seen (although she had previously talked about it). She thought she had been asked to participate by a neighbour; but could not remember who that was.
- (b) When asked about the account attributed to him, Robert Russell could not remember giving it. He also said that he never saw this in the pamphlet later and could not remember how it came about (although he accepted that it was generally a true account which he had given).
- (c) Brian Petticrew accepted in his evidence having made a statement to Anthony McCabe in 1992, which he thought was the earliest account he had given except for one given to his solicitors, Nurse & Jones.
- (d) James Dougal said that the portion in the pamphlet about John Dougal had come from their mother, who told him that she had “done an article”. He did not know the process for this as he was not living in the house then; but he assumed that someone came out to the house.

5.76 Generally speaking, a range of witnesses professed no knowledge or familiarity with the publication or were unsure as to whether they had seen it. By way of example:

- (i) As appears above, Harry Gargan’s evidence was to the effect that he did not think he had ever read the pamphlet before the present inquest.
- (ii) Patrick Butler said that he had never seen the pamphlet or read it until a couple of months before the inquest.
- (iii) Brian O’Kelly said that he had only seen the pamphlet in April 2024 when being interviewed by my investigator and, before that, had never seen it at all.
- (iv) Mary Moore (Smyth) said she *might* have seen the pamphlet and that there were “a few different things put out”.

- (v) John Fusco said he was not aware of people putting together the pamphlet and no one had approached him in relation to it.
- (vi) Margaret Simpson said she did not know anything about the account purported to be given by her sister (Kate Donnelly) in the booklet.
- (vii) Martin McShane said he was unaware that he was mentioned in the booklet; and was not really aware it was published or available. He did not know anything about it.
- (viii) Elizabeth Meenan denied knowledge of the pamphlet and said that she did not receive it and was not spoken to about what was in it.
- (ix) Rosemary Kennedy (Heath) said she was not familiar with the pamphlet before having been shown it by my investigator; and that she had not seen the pamphlet, nor heard about it.
- (x) Anthony Meenan said he knew nothing about the pamphlet and had never seen it.
- (xi) Dennis Devenney also said he had never seen the pamphlets (making the point that he left Westrock in 1973).
- (xii) Felix Cush said he did not recall a pamphlet written by Mr McCabe.

5.77 I was surprised that the booklet was so little known amongst many persons who were sufficiently connected with the events of 9 July 1972 in Springhill to warrant being called as witnesses in this inquest. This is particularly the case given that the booklet was launched by and for the local community in order to support demands for an inquiry or inquest; and when it was launched or publicised at well-attended memorial events or community events. Although I entirely accept that some people may not have seen the booklet or been aware of it, or may have forgotten this, in some instances I felt that witnesses wished to distance themselves from aspects of the text (particularly in the 1992 edition) which did not sit easily with the evidence or narrative they were presenting. I was particularly surprised by Mrs Thompson's apparent lack of knowledge or memory of the production of the version of the booklet with which she was involved. However, she indicated that she suffered from long Covid and that her memory for dates, times and names is now very poor.

Identity of the anonymous eyewitnesses

5.78 Eyewitnesses One, Three and Four from the 1992 edition of the Springhill Massacre booklet remain unidentified. I am satisfied that Gerard Heath was indeed Eyewitness Two. I do not believe that Rosemary Kennedy (Heath) was, in fact,

Eyewitness Three, albeit at one point she thought that she may have been. I proceed on the assumption that these accounts were provided by real eyewitnesses and not simply fictional accounts or summaries penned by a ghost writer. That follows from Mr McCabe's clear evidence on this and is exemplified by the fact that Gerard Heath was actually Eyewitness Two and still maintains a broadly similar account.

5.79 Eyewitness One was plainly a 15-year-old at the time. The tenor of the account leads me to consider it much more likely to have been a boy, rather than a girl. He appears to have been a member of the Fianna. Few other identifying features are indicated. He does speak about running with another person to get a stretcher from an ambulance which had just arrived and going to the last house between Springhill and Westrock to retrieve the body of David McCafferty. In the deposition of Samuel Thompson made in July 1972 in connection with the first inquest, he described driving an ambulance and arriving at Westrock Drive around 10.20 pm on 9 July 1972. He goes on to state that they stopped adjacent to the church and two men came out of one of the alleyways; they took a stretcher and, when they came back, they were carrying a young man who was dead, whom he later knew to be David McCafferty. The individual also indicates that he ran past Mary McVeigh's window and she asked why everyone was running. Her evidence, however, did not shed any light on who this may have been. She did describe seeing a 'lad' of about this age going past her window but not speaking to him. She did not recognise him then but later recognised him as having been David McCafferty.

5.80 Brian O'Kelly said he did not assist with the production of this, or any, pamphlets. I found his denial in this regard credible and I believed it. He had no information to give about the death of Margaret Gargan and I do not believe that he was Eyewitness Four. I also did not consider that he was likely to be Eyewitness One.

5.81 I consider there is a strong likelihood that Eyewitness One was in fact Liam Stone (previously referred to as 'SC6'). I say this having regard to the account which he gave orally at the St Aidan's Inquiry, which, in the transcript furnished by the next of kin, is in the following terms (with spelling errors corrected):

"In 1972 I was fifteen and myself and a couple of mates where [sic] up in Ballymurphy, up at the corner of Whitecliff Parade, Ballymurphy Crescent and Ballymurphy Road, whenever word came through that there was people shot in Springhill and that help was needed. It wasn't unusual at the time for shooting to have been heard but whenever word had come through that people had been shot we made our way down Ballymurphy road and into Springhill through the start of Westrock Drive, up here. On the way through we had no need to take cover or anything like that because for a start we didn't know what had happened but in that respect it

was obvious that the snipers who were carrying out the shooting could not see that end of Ballymurphy or whatever so they were obviously concentrating on this here in front of us. Whenever we got to Westrock Drive we were stuck along these gable walls here and we couldn't see what was happening in and around here, but we were told that people had been shot and actually died. While we were waiting here the priest came up and I think he parked his car round at Springhill shops or somewhere away from it anyway and he came up and after conversing with a couple of people, as I say we were only fifteen so he was probably conversing with adults or bigger people or whatever. He decided he would make his way over to where the dead and dying were lying and at the time he pulled out this hanky to us it looked like a small sheet, but it was a hanky. The way that we were coping with it like we said to him 'Jesus what do you think that will do, will that stop him from being shot, ye know, at his naivety ye know that the priest would say 'Well I have a white flag so therefore they'll not shoot me' and he made his way over to here where he ended up getting shot dead. At that time we were assisting along here with trying to keep young ones out of the road with ah, trying to get accurate information to try and stop rumours and things like that there circulating and then word came over that more help was needed in and around this area here so we made our way through here.

I'm fairly certain that in and around here could have been considered a safe area because it was out of view of the line of the snipers. We made our way here and over to about here. One of the images that sticks in my mind because of the similarities with one of the victims of Bloody Sunday was Paddy Butler was lying dead, I think about here or here I'm not sure exactly where, but he had a half a sheet of blanket covering him and what was sticking out from the bottom of it was his feet, ye know and that there was like one of the victims of Bloody Sunday, they had a blanket over them and the thing that was prominent was the feet. Eventually, it was late whenever this here was happening, I don't know what time but brightness seemed to last for a while like it wasn't just before dusk or darkness or whatever.

Eventually an ambulance made its way up to here somewhere and meself and a mate ran over and got a

stretcher and came back over to – I'm not quite sure which house it was, one of these ones... Which one? This one? No, no Dee McCaffery, David McCaffery we knew him as Dee he was in our class at school, was actually passed out of one of these windows here... was it? He was actually passed out and on to the stretcher and me and the mate were carrying him from this area here over to the ambulance. The mate was at the front of the stretcher and I was at the back and he said to me 'who is it?' and nerves made me laugh, it's a condition, and I said it's Dee McCaffery and he's dead and the thing the image that sticks out in my mind is that from my position at the back of the stretcher he didn't seem to have any back, his shirt was just completely sunk into his back and it was obviously bright red and we carried him over to the ambulance and we went back to see what else we could do and essentially that's all we could have done at that time on the Sunday night. I also remember that there's a pathway along here somewhere between the rest of the bungalows and the Whiterock houses and on Monday afternoon, I can remember a man being shot in the neck somewhere about here, in and around here somewhere, I think it was Clarke's might have had a house shop, I'm not too sure and the obvious way to get to the bungalows out of Springhill from the Whiterock was to come up this way and through Whiterock Drive but obviously they couldn't do it, so people were using this pathway. You get the impression here that the bungalows were up tight against Corrigans wall but they weren't there was a pathway there and a man was shot on Monday afternoon in the neck...

... Well essentially that was the Monday afternoon and the snipers were still operating and another image that sticks out in my mind is that a woman who was trying to make her way up to Springhill came along this path with a pram and a child by the hand and much as we tried to persuade her to go back round through Whiterock and go up the Whiterock Road for whatever reason she insisted she had to get along that there way. So myself and a couple of others actually lifted the child and the pram and the woman and literally just dashed up through that there path on the Monday afternoon. On the Monday evening that was July 10th 1972, I can remember a community worker Mark Duffy giving an interview on one of the local news programmes about the entire attack and still stating

that the estate was still under attack and then as far as I'm concerned the shooting still went on the Tuesday morning and it only ended sometime in and around Tuesday afternoon whenever the IRA took action against the snipers on the Tuesday afternoon, so essentially that's, that's what I seen."

5.82 There is a high degree of similarity between this account and aspects of the anonymised account from Eyewitness One, including: (i) commencing the narrative with friends at exactly the same place (Provie Corner, identified in similar terms); (ii) hearing about shooting in Springhill and going there; (iii) sheltering at gable walls with others once he arrived; (iv) seeing the priest arrive in a car which he parked at the shops; (v) the priest having a hanky and being mocked for using it in the fashion he did; (vi) receiving word that help was needed on the other side of the road and going to help there; (vii) getting a stretcher from an ambulance and recovering David McCafferty's body on it, passed out from a house through the window; (viii) having nervously laughed at this; (ix) being at the path at Corrigan Park wall the next day; and (x) helping in the incident there with a woman who had a pram and a child. A number of these events are not described, or not described in this way, by any other witness. The degree of consistency is so high that I consider it highly likely that Liam Stone is either Eyewitness One (or perhaps his friend 'Z', although this seems less likely). The account he provided at the St Aidan's Inquiry appears to have used the Eyewitness One account as an aide memoire. Tellingly, however, any reference to armed civilians on the evening or night of 9 July 1972 has been removed.

5.83 Liam Stone's criminal record was available to the inquest and shared as there were convictions which I considered may be potentially relevant (including possession of a firearm and ammunition with intent in February 1976, for which he received a 14 year sentence of imprisonment). The date of birth on that criminal record confirms also that Mr Stone would have been 15 years old at the time (turning 16 in November 1972).

5.84 Significantly, Don Mullan, who was chairing the inquiry at St Aidan's or at least asking questions, specifically asked Mr Stone if he saw anyone acting suspiciously or any gunmen in the area. Mr Stone queried whether this question related to the Sunday night (i.e. 9 July 1972) and, when this was confirmed, said as follows:

"No. The only thing I seen were people who had been shot and wounded, lying in and around here. By the time we had got to these gable walls the killings by the British Army had already taken place ye know, but there was still sporadic sniping but the initial thing was over and done with by the time we had went in to evacuate the dead and wounded but, no, I never seen any IRA volunteers at that time."

5.85 Bernie Callaghan, who was also contributing to the St Aidan's event at that time, also said that she had not seen any gunmen "at that time". (Of course, if her evidence to this inquest – discussed in Chapter 9 – is correct, she would not have been in much of a position to see any gunmen at that time, since her evidence was that she essentially just remained in her house all evening on 9 July 1972.)

5.86 Liam Stone was mentioned by Mr McCabe as the other possible candidate for the author of the Eyewitness One account and, for the reasons given above, I think it is more likely than not to have been him. He did not give evidence to the inquest for reasons discussed briefly in Chapter 6.

5.87 Turning to Eyewitness Three, this looks to have been a "wee girl" who was with Margaret Gargan at the community centre and, indeed, with her at the time when she was shot. Elizabeth Meenan denied knowledge of the pamphlet indicating, in response to questioning from MoD counsel, that she did not receive it and was not spoken to about what was in it. She denied that the Eyewitness 3 account was an accurate record.

5.88 Rosemary Kennedy (now Heath) indicated in her statement to the inquest that she *was* the person referred to as Eyewitness Three in the booklet. However, she referred to a number of points in the Eyewitness Three account which she said were incorrect. These were that: the first line describing trouble that day was inaccurate, as there was no trouble; the second line was also inaccurate as there was no panic or any shooting that she could hear until Margaret Gargan was shot; they were not near the community centre that day (rather, she and Elizabeth Meenan were outside sitting talking on the Meenans' path); and she could not remember how Margaret was taken away as she was in shock and did not know how or when Margaret was moved. (Some of this evidence does not sit easily with a statement read out by Joe McVeigh, Solicitor, on her behalf at the St Aidan's Inquiry, which commenced with indicating that she and Lizzie Meenan "went to where the shooting was going on at Westrock Drive just out of curiosity" and were told to get away, she thought by Jack Cahill.)

5.89 When questioned about how her account as Eyewitness Three came to be included in the Springhill Massacre Booklet, Ms Kennedy could not remember making the statement forming the basis of the account. She also could not explain why she had thought the account was hers. When pressed on this, she said that she had thought that she was Eyewitness Three because that account mentioned Margaret Gargan and she had been with Margaret when the shooting happened. It was just because of what was in the account that she reached the view that she was Eyewitness Three; but she could not remember giving the account, nor was she familiar with the pamphlet before having been shown it by my investigator. She had not seen the pamphlet or heard about it. Viewing Ms Kennedy's evidence in the round, I formed the view that she may not actually be the person who gave the account recorded in the pamphlet as that of Eyewitness Three. However, this was difficult to determine. It could also have been that she wished to distance herself

from some aspects of that account, in particular the suggestion (although this was not clearly spelt out) that there had been trouble *before* Margaret Gargan was shot.)

5.90 If Ms Kennedy was not in fact Eyewitness Three, there is a possibility that this was Marie Meenan, since she was the other person who indicated she was with Margaret Gargan when she was shot and also (unlike Rosemary Kennedy) that she had come with her from the community centre. As it happens, she does not appear to have been asked in evidence about whether she was in fact Eyewitness Three (or whether she had seen it). She did say in her written statement, though, that no one ever approached her to make a statement and her family did not discuss Maggie's death after that day. If Marie Meenan was Eyewitness Three, this would further support the view I have taken (in Chapter 11) that she was more likely than not to have been present, even though neither Rosemary Kennedy nor her sister Elizabeth remembered her being there; since it is unlikely in my view that she would have been interviewed for, and contributed to, the booklet in or around 1992 if others at that stage knew her not to have in fact been an eyewitness. In any event, given the relatively short and uncontentious nature of most, if not all, of the Eyewitness Three account, I do not consider that it was especially important to identify this witness.

5.91 Eyewitness Four similarly provided only a relatively short account. This account was relied upon more heavily in MoD questioning and submissions for a number of reasons: first, the reference to there being a "heavy gun battle going on", rather than a one-sided assault by the army on civilian targets; second, the reference to "local IRA Volunteers [who] came and gave us covering fire" at the time of recovery of Margaret Gargan's body; and, third, the reference to their being "heavily-armed" members of the OIRA nearby when the body was brought out onto the street.

5.92 It has not been possible to identify the author of this account. There are few distinguishing features disclosed in the account but it appears to have been a male who assisted in retrieving the body of a young girl who had been shot at the bungalows, which I think can safely be assumed to be the body of Margaret Gargan. On analysis, the account does not appear to relate to bringing Margaret Gargan's body in from the pavement to the Meenans' garden but, rather, taking her body from the garden to try to have it transported to hospital. When Harry Gargan was shown the Eyewitness Four account he also said in evidence that he had never read it before; and that he had never heard anything about that account or any of the people involved in it. In his evidence, Anthony Meenan said he knew nothing about the pamphlet and had never seen it, including never having seen the Eyewitness Four account. He said that he was never interviewed by anyone about it. He had only provided accounts to the police in 1972 and, later, to the HET team.

5.93 I wondered whether Denis Devenney might be the most natural candidate. (This might also be thought to be suggested by a note from Thomas Ramsey's HET interview suggesting that Mr Devenney was still alive and "gave [a] statement", although it is unclear precisely what this is referring to.) Mr Devenney gave

evidence about assisting in the recovery of Margaret Gargan's body and his name was also mentioned in this connection by Mr McCabe. When Mr Devenney was giving evidence he was referred to the Eyewitness Four account and said that it was not him. He said he had never spoken to anyone about what he had seen or done on 9 July 1972 after the original inquest in 1973. He also said he did not see the individuals (i.e. the armed civilians) who were described in the account.

5.94 Eyewitness Four said that he was with friends, having made their way up through the bungalows. Both Anthony Meenan and Denis Devenney said that they were in their homes before the incident. Eyewitness Four also said that he brought Margaret Gargan's body to an ambulance, whereas Anthony Meenan said that he flagged down a Mini car; and Denis Devenney recalled holding Margaret Gargan in a car (although I have some doubt as to whether that account was reliable or truthful). Eyewitness Four also said that, after bringing the body to an ambulance, a local woman identified it as Margaret Gargan, whereas both Anthony Meenan and Denis Devenney knew her.

5.95 There was not sufficient evidence for me to confidently conclude that either Anthony Meenan or Denis Devenney had provided the Eyewitness Four account, although the latter is probably the more likely in my view. It may, however, have been someone entirely different.

6. PARAMILITARY ACTIVITY AT THE TIME

6.01 A number of elements within the document setting out the scope of the inquest required consideration of the issue of paramilitary activity at the time of the deaths. This arose principally in terms of addressing the circumstances and purposes of the military operation in Corry's Wood Yard at the time; and addressing the suggestion that it was possible that one or more of the deceased may have been killed by a shot discharged by a civilian gunman.

The issue of civilian gunmen operating at relevant times

6.02 In particular, it was submitted on behalf of the MoD that the IRA was actively involved in offensive action against soldiers located in Corry's Yard; and that it was this action which prompted soldiers to return fire at armed civilians in a legitimate and justified use of force. The fulcrum of this case is contained in the ciphered statements. It also draws support, at least in part, from references within the army radio logs to fire being returned (and hits claimed).

6.03 There was also reference in the evidence to action by members of the Official IRA (OIRA). Where a reference is made in this ruling to 'the IRA', it will generally refer to the Provisional IRA (PIRA), unless the context otherwise indicates or an express distinction is made. The weight of the evidence is that most of those involved in the incidents I am considering who had some paramilitary connection were connected, insofar as they were at all, to the PIRA rather than the OIRA, with the exception of David McCafferty. There is, however, some reference within the Springhill Massacre booklet to OIRA operatives. The MoD case was made principally in relation to the PIRA but embracing the potential that OIRA members were also involved in the attack on the wood yard.

6.04 It is common case that an IRA ceasefire which had been in place up until 9 July 1972 came to an end on that date, on which the IRA announced the resumption of offensive action. However, the extent to which the violent action which occurred on 9 July 1972 was directed towards Corry's Yard at the time of the deaths is a matter of contention which has been fallen to be considered in the fact-finding relevant to this inquest.

6.05 This issue was addressed by a number of witnesses, including a number of civilian witnesses, as well as military witnesses. Broadly speaking, the weight of the evidence on the part of civilian witnesses was either that they had seen *no* civilian gunmen operating in the area at all; or that they did see such gunmen operating but at a time *after* the deaths with which this inquest is concerned. There were some civilian witnesses who provided evidence supporting the suggestion that civilian gunmen were operating in the area at or before the time of some of the deaths. Their evidence is discussed below.

6.06 As also discussed below, many civilian witnesses relied upon their privilege against self-incrimination (PASI) in this field which gave rise to a material gap in the evidence of which I would have wished to have had the benefit. In addressing the evidence on this issue, I also recognised that there may be a number of reasons why civilians – especially, but not limited to, those who may have been involved in unlawful organisations – would not wish to provide evidence about this. These might include legitimate fear of prosecution; not wishing to tarnish the character of themselves or others, especially if they were now living law-abiding lives; and fear of retribution if they were seen to be informing on others.

6.07 As mentioned in Chapter 4, both the army radio logs and the oral evidence provided by military witnesses provided a lot of information about *other* attacks on Corry’s Wood Yard or on soldiers within 1 Kings’ TAOR, and that of C Company in particular, during the regiment’s 1972 tour. I am satisfied that unlawful organisations in the form of both PIRA and OIRA were both motivated and resourced to attack soldiers and military installations or bases at that time. I am also satisfied on the basis of the evidence generally (including military evidence, army logs, the Corry Dairy and some civilian evidence such as is mentioned in Chapter 3) that the IRA was motivated to attack Corry’s Wood Yard as a business. The key question is whether, and particularly when, any such attack was mounted on 9 July 1972. The ability and willingness of the organisations to do so is not seriously in question. Indeed, as noted below, the civilian evidence also strongly pointed towards a ferocious and well-armed attack being mounted by civilians on Corry’s later on the night of 9 July 1972 and in the following days, painted as being a defence of the local community. There was no suggestion that the IRA was not in a position to do so. Again, the question was simply whether that arose only *after* the deaths with which this inquest is concerned.

6.08 This was an area where, unfortunately, I received no material assistance from the expert witnesses instructed in the proceedings, whose evidence is discussed in further detail in Chapter 8. In the course of the conclusions section of her report, Ms Kiernan indicated that there was “no scientific evidence to indicate that any non-military weapons were discharged on the evening of the 9th-10 July 1972”. In oral evidence, she accepted that there was also no scientific evidence to indicate that any military weapons were discharged; that is to say, the scientific evidence (other than pointing to the injuries being caused by high velocity weapons) did not point towards the type or ownership of the weapon in question. The issue of lead residues was also discussed by a number of expert witnesses but with the net conclusion that the presence or absence of such residues, in light of the nature and methodology of the testing available at the time, was not instructive as to whether or not a firearm had been discharged by the individual.

Military evidence of civilian gunmen

6.09 The ciphered soldiers’ statements obviously refer to gunmen operating within the Springhill and Westrock areas, at whom the statement-makers contend they

returned fire. The content of those statements is discussed in Chapter 4. Briefly, however:

- (a) Soldier A said his position in the wood yard was “engaged by a number of gunmen in scattered positions” about 20.20 hours, with the first fire consisting mainly of high velocity automatic fire. *During* that intensive fire he heard and saw a car and then saw three or four gunmen run from behind 49 Westrock Drive. He also described Soldier E’s position in main elevated OP coming under fire “from numerous positions surrounding the wood yard” about 21.30. He saw two gunmen leave their cover in the vicinity of 41 Westrock Drive, each with short-barrelled weapons. Having swapped positions with Soldier E, he said he located a gunman on the east side of the flats complex in possession of an LMG or something similar. He referred to firing covering fire in the direction of the northern bank of Corrigan Park, although he did not know if he had hit anyone with these shots. That suggests, however, that he may have believed there was fire being directed at the unit from that location. He referred to an exchange of fire which began to phase out about 01.00 on 10 July but which had been very intense and consisted of varying velocities and calibres, adding that among the weapons used by the terrorists during the action were pistols, Thompson SMGs, bren guns, Browning .5s and a number of rifles. He estimated that there were more than 20 gunmen operating during the action.
- (b) Soldier B said he identified a gunman with a weapon similar to an Armalite at the rear garden of 32 Westrock Drive about 21.50 who fired at his location. He also referred to hearing shots being exchanged which he considered were among the civilian gunmen in the area.
- (c) Soldier C said he identified a gunman in an upstairs window of a block of flats on Westrock Drive with a machine gun who fired two bursts directed at the wood shed.
- (d) Soldier D said that shortly after commencing his duty at 21.00 his position was “engaged by gunmen located in a number of positions around the wood yard” with around 30 rounds fired at the sangar which he occupied. He located two gunmen at about 20.00 (probably in error and intended to refer to 22.00) at a half-built building to the left of Corpus Christi Church, one with a pistol and one with a rifle. They were engaging military positions within the wood yard. He described an exchange of fire with intense firing both from and to the wood yard.
- (e) Soldier E said he saw eight persons deploying from two cars about 20.30, each carrying a weapon, including at least two rifles which he saw distinctly. At the same time he also saw two men running from 50 Westrock Drive, one with an SMG in the ready position and one with a pistol. He said gunmen were steadily firing at their location when he swapped positions with Soldier

A. Between 21.15 and 21.45 he then said he saw men running along the path at Corrigan Park with rifles and a box of ammunition. Shortly after that, a machine gun started firing from Corpus Christi Church. He then saw a gunman at the gate of 9 Westrock Gardens who was about to fire again.

- (f) Soldier F said that, about 21.30, he came under fire from a position somewhere in Westrock Drive. Within the next few minutes, he located numerous gunmen engaging positions within the wood yard, including his. In particular, he observed a gunman at the embankment at Corrigan Park in possession of a rifle; and said he observed several more gunmen in the Westrock Drive area. Firing to and from the various gunmen's positions continued until about 00.30, with very intense fire. In all, he saw 10 or 12 gunmen armed with various types of weapons ranging from pistols to Thompson SMGs.
- (g) Soldier G said, about 22.00, he saw a male firing an automatic weapon at the mound at Corrigan Park; and, about 23.00, a male with an M1 carbine at the pavilion in Corrigan Park.

6.10 As noted in Chapter 4, a number of the ciphered soldiers provide evidence that the wood yard had come under attack or gunfire in advance of their deployment, although they (unsurprisingly) provide no direct evidence of this.

6.11 I have already observed that significant elements of this picture are not reflected in the army radio logs available. For instance, there are no reports in the Battalion Log of shots at Corry's Wood Yard at any point during 9 July 1972 from early morning until 21.00, when shots were noted but "not known if at SF". The number and locations of gunmen reported by the ciphered soldiers - particularly in the earlier stages - are not specified in the radio logs, with most fire said to be directed from the area of Corpus Christi Church. I also note that several log entries from 22.35 onwards refer to blast bombs being thrown over the wall at Corry's, which are not referred to anywhere in the ciphered statements. (This may well be because the RMP investigation was focused on a shooting incident and seeking an explanation for the discharge of army rounds. It is still a little surprising, however, that blast bombs are not mentioned when a number of the ciphered soldiers appear to have been in a location at the time when these would have been heard or seen.)

6.12 The logs do, however, provide contemporaneous documented support for the suggestion that there were some rounds being fired at Corry's Wood Yard by civilians on the evening of 9 July. Aside from the three high velocity shots at 21.00, there is an entry recording a burst of automatic fire from Corpus Christi at 22.03 (but no fire returned); two further high velocity shots from Corpus Christi at 22.12; with a burst of automatic fire at the southern end of Corry's at 22.23. There is then a reference to a number of gunmen in the area in the entry at 22.24; a gun battle at 22.35; and several gunmen firing from different positions at 22.45. A gunman was firing at the Corry's OP from the roof of the SPD building at 22.46. An entry at 22.56

records a gunman hit near Corpus Christi when fire was returned by Corry's OP. A gunman was seen on the roof of Corry's at 23.06 and another report of a gunman inside Corry's was provided at 23.15. More high velocity shots were recorded as being fired at Corry's from Corpus Christi at 23.36, 23.37 and 23.41. Coordinated fire was then reported coming into Corry's intermittently from Westrock/Whiterock at 23.36. Gunmen were reported in the laundry premises at 00.15. The situation report from C Company at 00.20 also noted that 250 rounds had been fired at the army (with 82 returned), although as noted previously it is not clear which C Company locations were included in this. It does, however, record many more rounds than had been specifically reported back as having been fired at Corry's.

6.13 In summary, the Battalion Log indicates sporadic shots at Corry's at 21.00; more sustained (albeit still sporadic shooting) from just after 22.00; and then significant activity from around 22.23 onwards, including a variety of gunmen shooting from several locations and a significant number of blast bombs being thrown into the Corry's premises. Assuming the content of these logs to be an accurate report, this provides strong support for civilians shooting at, and blast bombing, Corry's Yard in a significant attack on it and military personnel stationed there.

6.14 The evidence from military witnesses in the inquest in this regard was much more limited, especially in view of the fact that so few military witnesses placed themselves in Corry's Yard that day. However, in SM100's evidence he said there had been shooting "all day" at Corry's. He himself had heard occasional shots. The shooting he heard were general shots, now and then, and single shots. He then said he heard two or three around the time he went with SM10. He thought they were coming from the direction of Corpus Christi Church. SM100 also gave evidence of an armed man seeking to come into the yard through the hole that he was guarding, prompting him to fire. He thought this may well have occurred before the more intense shooting elsewhere. Having given evidence about the arrival of the QRF, he described intense gunfire including both *incoming* fire (a mixture of high and low velocity shots) as well as outgoing fire. He described many more shots coming towards the shed than being fired back during the period of intensive fire, estimating the ratio as 3:1 civilian shots to military. He was unable to accurately time any of these events though.

6.15 Although not in the immediate vicinity of Corry's Yard or its southern boundary, it is also worth noting that the shootings of SM9 and Sgt Durkin around 8.00 pm, with log entries also showing two sets of spent cases recovered at 20.15 and 21.15 respectively, clearly support the view that armed gunmen were operating against the security forces in the wider Springfield Road area, within C Company's TAOR, at that time. The shooting of Sgt Durkin at Kelly's Bar was the closer of these two to Corry's Yard. This dispels the notion that *all* such volunteers had joined the efforts in Lenadoon.

6.16 The MoD also drew attention to the fact that Cpl Brobson of the RMP mentioned in a statement that at 18.00 hours on 13 July 1972 he was handed by Mr Phillips, an employed security guard at Corry's Wood Yard, a small brown bag containing 198 spent bullet rounds (which he provided to DIFS for analysis). This was described as being found at the base of the southern wall of Corry's next to the Springhill Estate while on a patrol of the perimeter. (SM344 was asked about this but had no recollection of it.) It is difficult to know what can properly be drawn from this. One interpretation is that it was a repository of spent rounds which had been discharged at some stage over the preceding days by civilian gunmen outside Corry's. However, the statement of Mr Phillips itself does not disclose whether the bag of spent rounds was found inside or outside the perimeter wall and, more importantly, indicated that this bag had been found at 08.00 on 9 July 1972. It is unlikely that anything much can be drawn from this, therefore, given that the discovery preceded the events which are the subject of this inquest by over twelve hours.

Civilian evidence of civilian gunmen

6.17 There was also some evidence from civilian witnesses in the inquest of civilian gunmen who were seen armed and/or shooting towards Corry's Yard at or around the time of the deaths which are the subject of this inquest. There was even more evidence concerning the actions of civilian gunmen at times likely to be after those deaths. I first summarise this oral evidence, which is addressed further in Chapters 9-11, before turning back to the content of the Springhill Massacre booklet.

Around the time of the incidents

6.18 Patrick McClory, a telecom engineer and Order of Malta ambulance driver, gave evidence of two men, one of whom had a gun, whom he saw when he was fixing the telephone line to the nuns' house in Springhill Avenue. He estimated this was between 7.00 pm and 7.30 pm, during which time the armed man fired two "warning shots" at Corry's Yard.

6.19 Gerard Mateer gave evidence of a man in civilian clothing firing shots at Corry's Yard with a handgun, from a position between Nos 87 and 89 Westrock Drive. It is difficult to establish the time of this event. He described it as "coming up to the evening". It seems to have been at or around the time when David McCafferty and Fr Fitzpatrick were shot. I say that because Mr Mateer recounts then moving to the location of their bodies, after having seen the armed man firing at Corry's, at a time when the bodies were both still in the street and when people were "trying to treat" David McCafferty (the pathology evidence being that the bullet wounds to David McCafferty would have caused fairly rapid, but not instantaneous, death). Potentially significantly, Mr Mateer also gave evidence that a number of people from a large crowd on the Whiterock Road moved up the Ballymurphy Road towards Springhill at or around the time he went there (having been dispersed by the firing of tear gas on the Whiterock Road). His evidence was also that there were quite a lot

of civilians “scurrying about” in the area, including persons he encountered at or around the bodies of Fr Fitzpatrick and David McCafferty and when he was en route to their location from his earlier position nearer the wood yard.

6.20 Mary Doyle gave evidence about the shooting she encountered (sometime between around 8.30 pm and 9.10 pm on her evidence) when making her way back from the Ballymurphy Road to Westrock Drive. Her evidence was that the first burst of fire which she heard was automatic gunfire, followed by single shots, with the two types of gunfire then continuing. On the MoD’s case, the automatic fire must have been *civilian* fire because the soldiers were not equipped with automatic weapons. (The vast majority, if not the totality, of the civilian evidence in relation to army fire also suggested that, although there were occasional bursts of fire in quick succession, the firing consisted of single shots which civilians understood to be from snipers, rather than machine gun fire.)

6.21 Patrick Butler gave evidence of two IRA men arriving at the scene. Although this was after the shootings of Martin Dudley, John Dougal, Brian Petticrew, David McCafferty and Fr Fitzpatrick, on his evidence they appear to have arrived fairly shortly after Fr Fitzpatrick was reported as having been shot. It is quite possible, therefore, that they were in the area before or at the time of at least some of the shootings. Mr Butler saw them with a rifle. Initially, they were at the corner of 49 Westrock Drive – the location from which Soldier A said he had seen three or four gunmen run. However, Mr Butler said that they did not return fire from there. Every time they put their head around the corner, they were fired at. Mr Butler described these IRA men later going down through the Springhill flats and, he believed, firing back at the army in Corry’s Yard from Corrigan Park, although he had not personally seen this. It is unclear from where these men originated.

6.22 Mr Butler’s evidence also suggested that there was a gun battle. (In a previous statement, he had referred to local units of the IRA arriving to engage the soldiers, although in oral evidence he said this referred only to the two men he saw with a rifle.) However, his evidence was that this occurred *after* at least most of the deaths which are the subject of this inquest. At the same time, he had also suggested in an earlier statement in 2013 that there was engagement between civilian gunmen and the army for a couple of hours until darkness fell, which would indicate that the exchanges commenced earlier in the evening (see para 9.142 in Chapter 9).

6.23 There was some other civilian evidence which may be consistent with civilian fire on that evening towards the army at a relevant time. For instance, in his evidence Gerard Kelly described, before having met David McCafferty that night, a sense of shooting happening “on the ground” and not from up high, leaving open the possibility that someone was shooting at ‘the Brits’ (as well as, or instead of, ‘the Brits’ shooting at someone else). In his interview with HET officers Thomas Ramsey made reference to the Official IRA starting to engage. In his statement he said that the OIRA may have been firing shots at the yard from the bungalows at the top of Beechmount (as he heard that one of them had lost the tops of his fingers). In oral

evidence, he accepted that the OIRA may have been firing shots at the yard on 9 July 1972 but was more equivocal about this. The HET notes of his interview also included the following: "Denis Devenney. Still alive gave statement. Possible official IRA firing up street?"

6.24 Although hearsay, Ann Maguire (Vallely) indicated that she attended St Peter's School on 9 July 1972 at a time when it was still light and heard there that the IRA had been firing back at the army from Corrigan Park and from the shops at Springhill. If she was correct that it was still light at this time, any such shooting must have been between 9.00 to 10.00 pm at the latest. Although Ms Maguire described this as rumour, she also indicated that her brother-in-law Martin was at the school. In the course of her evidence she accepted that he was in the IRA and she had observed him shooting a long weapon from Corrigan Park towards Corry's Yard on the following day. This might well suggest that he would have been in a position to be aware of what the IRA was or was not doing on the night in question. Martin McShane referred to "general talk" of gunmen returning fire from Corrigan Park to Corry's Yard "at about 10.00 pm or later", which could conceivably have overlapped with the timing of some of the incidents under consideration. As noted further below, in oral evidence he said he had lost sense of time but "*would think it was probably later than that*", so the issue remained unclear.

6.25 In her evidence, Johanna McCullough described a man with a handgun at the back of Kate Campbell's house who was directing people across to Corrigan Park when she left there (having come through the hole in the wall in the Petticrews' bungalow). This was on the night of 9 July. It is unclear at what time; however, on Ms McCullough's account, it was after John Dougal had lain injured or dead for around an hour and then been brought into the Petticrews' and tended for a time. (The next of kin of John Dougal made the point that Thomas Reid had a good vantage point over the gable end of the two bungalows closest to Corrigan Park at the time he witnessed John Dougal being shot; and he did not identify any gunman at or about this location at that time.) Ms McCullough also said that she saw this man as it was starting to get dark and when it was not yet dark, which might indicate that he was in the area sometime between 10.00 and 11.00 pm given the time of sunset and dusk.

After the time of the incidents

6.26 Other witnesses gave evidence of IRA fire at Corry's Yard at a time or times *after* the shootings with which this inquest is concerned. For instance, John O'Donoghue gave evidence that it was his understanding that the IRA came into the area later and the shooting then became more frequent. Although he did not see this (and said he did not see any civilian gunmen at any time), he had gained this understanding. He said that the shooting at that point was completely different from the sound of gunfire in the previous hour or so. Brian Petticrew gave similar evidence, suggesting that while he was lying injured in his house there was more gunfire of different types, some of which he considered may have been automatic

fire recorded in the army logs being directed back towards the army. This all appears to have happened within a short time of incidents 1 and 2 in this inquest.

6.27 To similar effect, Ciarán de Baróid's book purports to quote from "one of the few senior IRA Volunteers still in the area at the time of the shooting". This individual is quoted (see further below) as describing "the panic and confusion that followed the slaughter at Westrock". However, the book also says that it took merely "some 15 minutes" for the IRA to get into defensive positions.

6.28 A number of other witnesses gave evidence about the IRA returning fire later that night and/or over the ensuing days. This seemed to have been the subject of considerable "general talk". An example is the evidence of Martin (Gil) McShane who heard talk of gunmen returning fire from Corrigan Park to Corry's Yard at about 10.00 pm or later. In his oral evidence, he said he believed this was after 10.00 pm.

6.29 Mr de Baróid's book purports to quote from an IRA volunteer who had remained in the area as saying the following:

"It took a while for the Volunteers to get organized. Most of them had to get back from Lenadoon. As well as that people were seeing snipers everywhere. Not alone did we have to engage the snipers at Westrock, but we had to follow up all sorts of reports of firing coming from other directions. At one point me and Jim Logue went up by the riverbed and fired some flares to light up Corry's wall. Then Jim jumped up with a carbine, but the bloody thing had dud rounds and never fired. It's just as well there was no one to fire back or Jim would have been a dead man."

6.30 Thomas Reid gave detailed evidence of firing from civilian positions the next day, 10 July 1972, back at Corry's Yard: see para 9.63 in Chapter 9. This included a range of persons firing from different locations (Britton's Drive, 33 Westrock Drive and the Springhill flats) with a variety of weaponry (a sub-machine gun and a rifle being mentioned). Likewise, Tony McCabe gave evidence of civilian fire at Corry's Yard on 10 July from Corrigan Park and houses at Whiterock Gardens, indicating that there were people with bolt action rifles. He was later given the identity of one of those firing, Jim Bryson. As already mentioned, there was no serious doubt about the capacity of certain civilians and unlawful organisations to mount attacks on the army. The question is the extent to which this was occurring at the relevant time.

6.31 The Springhill Massacre booklet, discussed next, also provides ample indication of significant and sustained gun battles between civilian gunmen and the army later that night on 9 July 1972 and over the following days. In the course of the inquest, however, the MoD focused on the content of the pamphlet as supporting its

case that civilian firing was happening before, during and/or immediately after the shootings which form the subject-matter of this inquest. A variety of civilian witnesses mentioned women and children being 'evacuated' from the area either on the night of 9 July or thereafter. For instance, in Jacqueline Butler's personal statement in relation to her father she described that she, her brother Martin and her sister Isobel, did not even get to attend their father's funeral as "we were sent away for safety because of all the shooting that was still going on in the area". An entry in the Battalion Log on 10 July refers to the prefabricated houses north of the hut in Corrigan Park being evacuated of women and children to the community centre south-east of Corry's; and an entry on 11 July recording intelligence from a source reiterates that families were being evacuated from the Springhill and Whiterock areas and children warned off the streets as the "roof of Corry's will come off tonight".

The Springhill Massacre booklet

6.32 There is a significant amount of information in the first iteration of the Springhill Massacre booklet to suggest that the PIRA and/or OIRA were firing at and in the vicinity of Corry's Yard around the time of the deaths. That is one of the reasons why the MoD was so critical of the 'sanitisation' of the content of the booklet in its later edition.

6.33 A good deal of this information came from Eyewitness One, an unidentified 15-year old member of the Fianna, who went to Springhill from 'Provie Corner'. His account suggests that he did so *after* snipers had opened fire from Corry's Yard (and word of this reached the group of which he was part). However, given the proximity of the locations, Eyewitness One would likely have come on the scene very quickly thereafter.

6.34 Eyewitness One described, upon arrival at Springhill, finding a gunman (X) behind the electricity box between the Springhill houses and Westrock bungalows firing a revolver. This electricity box was at the northwest corner of the Heralds' back garden at 47 Westrock Drive (and the southwest corner of the back garden of No 45), opposite Nos 51 and 53 in the Springhill flats. It is both in close proximity to 49 Westrock Drive, from behind which Soldier A's statement says gunmen ran to covering positions; and to 41 Westrock Drive, in the vicinity of which Soldier A also says he saw two gunmen with short-barrelled weapons, one of which resembled a pistol. Eyewitness One's account could be considered to corroborate elements of Soldier A's account.

6.35 Eyewitness One's account also records that there was a member of the OIRA (Y) firing a grease gun (an SMG) at Corry's Yard. He emptied a full magazine in doing so and could not re-load the gun. Eyewitness One's friend helped him re-load but Y would not then let him fire the gun. This account is potentially corroborated by the reference in Mrs Butler's account in the Springhill Massacre booklet to someone who "must have been an ex-Stick or something" complaining, "Jesus

Christ, they wouldn't even let you have a shot of their guns!" . The timing of this is unclear but it appears to be at or around the time Eyewitness One arrived on the scene, or shortly afterwards. He said that "it was still very bright" when he arrived, which is likely to indicate that it was before sunset which occurred around 9.58 pm. If indeed, as I consider likely to be the case, this incident is related to that recounted by Margaret Butler (where someone in her house complained about not being allowed a shot of others' guns) this appears to be at a time when all the men were standing around and she was waiting for her husband Paddy to return.

6.36 Eyewitness One then recalls Jim Bryson coming on the scene and telling the members of the OIRA to leave. Significantly, in Eyewitness One's account this appears to be *before* Fr Fitzpatrick came onto the scene. (This does, rather, appear to cut against the intelligence picture in relation to Jim Bryson's activities that day, mainly at Lenadoon, mentioned briefly below.)

6.37 Eyewitness One also stated:

"Word came over to our side of the road that more people were needed on the other side. While other people all opened fire simultaneously several of us ran across the road. When we got there, we found out there were several dead in a house and one man lying dead between the houses... During this time more and more people were coming into Springhill/Whiterock with more weapons as the firing from the Brits side became more heavy and sustained."

6.38 This aspect of the account implies that there were a range of people in the area who were able to open fire to facilitate others running across the road; and that there were already guns in the area (with "more" weapons coming later). It may also speak to the timing of the previous statements about firing by X and Y. By the time Eyewitness One crossed the road it seems likely that Fr Fitzpatrick and David McCafferty's bodies had been moved and that Patrick Butler's body, which lay in the street for longer in the area between the houses, may still have been in situ.

6.39 As discussed in Chapter 5, I consider it very likely that the account of Eyewitness One was provided by Liam Stone. In the course of his evidence, Mr McCabe said that the person who provided this account would not have wanted his name on it; and that, if it was the person he was thinking of, he had changed his life and was now highly educated and doing well. Mr Stone initially confirmed that he would engage with the inquest and provide a statement. His lack of engagement with a variety of approaches from my solicitor and investigator resulted in his being issued a notice under section 17A of the Coroners Act towards the end of the inquest hearings, requiring him to attend and give evidence. He responded providing evidence from his General Practitioner indicating that he was a lifelong patient and requesting that he be excused from attendance on a variety of bases. The doctor had

reviewed him on the day of the letter and found that he had marked anxiety symptoms, insomnia and was expressing suicidal ideation. An exacerbation of PTSD was also confirmed. In light of this, Mr Stone was excused from attendance on medical grounds in an oral ruling on 27 April 2024. In the course of the ruling, I noted that I doubted whether Mr Stone would provide much evidence of assistance even if he had been in a position to attend in light of his unwillingness to engage with my investigator or the inquest for quite some time. (It seemed to me that significant reliance on his privilege against self-incrimination may have been a likely outcome.) I also indicated that I would take into account his unwillingness to engage with the inquest when considering the evidence in the round.

6.40 On the 25 April 2024, the MoD provided open-source material relating to Mr Stone and a criminal conviction. He was convicted, after a plea of guilty, of possession of a firearm and ammunition with intent and two counts of wounding with intent, with those offences occurring February 1976, and sentenced to 14 years' imprisonment concurrently on each charge. The convictions related to a shooting incident at the Ballygomartin Road when shots were fired from a motor car and as a result two men were injured. The police duty officer's report indicates that a car was hijacked by armed youths in the Beechmount area. It travelled up the Springfield Road and into the Ballygomartin Road and tried to kidnap two Protestant pedestrians. The two youths refused to get into the car and the occupants of the hijacked car opened fire on them. An army patrol witnesses this. The hijacked car later crashed and the remaining occupants were arrested by the army, after having been fired upon and returning fire. A loaded automatic pistol was found in the car. The MoD also provided media articles about the incident, including one in which the sentencing judge described the offending as "just another episode in this frightful sectarian warfare". This would certainly resonate with Eyewitness One's description of himself and his associates as "hardliners". It is no surprise that Mr Stone may not have wished to engage with the inquest or attend to be questioned about his past and the account which appears very likely to have been given by him in the booklet.

6.41 The Eyewitness One account goes on to provide further details of civilian firing at the army in Corry's Yard later on in the night of 9 July 1972 and the following days. He and Z ended up carrying a big green cloth bag full of ammunition for Tommy Tolan and Mick Clarke, both identified as IRA volunteers, who had a rifle and a sten gun, with Eyewitness One acting as a "runner" for them. (This element of the account bears some similarities to Soldier E's description of seeing several men running along the path past the new community centre at the foot of Corrigan Park bank carrying what looked like rifles and boxes of ammunition). Covering fire near the Corrigan wall was also described the next day, Monday, and either on that day or the following day Jim Bryson was described as spraying all the wood yards in Corry's with a Lewis gun from the roofs of the houses closest to its wall.

6.42 Eyewitness One also speaks about running with another person to get a stretcher from an ambulance which had just arrived and going to the last house

between Springhill and Westrock to retrieve the body of David McCafferty. In the deposition of Samuel Thompson for the first inquest, he described driving an ambulance and arriving at Westrock Drive around 10.20 pm on 9 July 1972. He goes on to describe stopping adjacent to the church and two men coming out of one of the alleyways. They took a stretcher and when they came back they were carrying a dead youth on the stretcher, whom Mr Thompson later knew to be David McCafferty. This appears to corroborate Eyewitness One's account and to suggest that the events he described earlier occurred prior to the collection of David McCafferty's body.

6.43 Eyewitness One also recounts running past Mary McVeigh's living room window and speaking to her through the window. She asked why everyone was running as she had been watching the television and had not heard anything. Eyewitness One said that he pointed out Paddy Butler's body to her. This element of the account is not wholly supported by the evidence of Mrs McVeigh (which is discussed in detail in Chapter 10) but does bear some similarities, in that Mrs McVeigh said she did not see the shooting but, later, opened her window and could see (only) the body of Patrick Butler.

6.44 The Eyewitness Four account also refers to there being a "heavy gun battle going on", rather than one-sided shooting from Corry's Yard only. It then notes that local IRA volunteers came and gave covering fire so that the body of the young girl could be retrieved. It also describes heavily-armed OIRA men in the area.

6.45 It is not only the anonymous eyewitness accounts within the booklet which give support to the suggestion that there were armed civilians active on the night of 9 July 1972, possibly at or before the time of the shooting of the deceased in this inquest. In the account attributed to Mrs Butler, she described waiting for her husband Paddy to return. The next thing, everything seemed to die down and everyone seemed to go away. She said that different rumours were flying around about who had been shot. Next, "one of the Sticks came in and he was saying, "Jesus Christ, they wouldn't even let you have a shot of their guns!" The account says he must have been an ex-Stick or something. He referred to many people being shot but when he heard Mrs Butler's name he said he had to go and left. Kate Donnelly's account also refers to "all the fellows that were active that night" and to them having "lost a gun" and looking all over for it. Brian Petticrew's account noted that, about half an hour after he was shot, "there was a full scale gun-battle raging", which was consistent with the evidence he gave in this inquest. Similarly, Robert Russell's account refers, *after* all the shooting, to the IRA coming back into the area from other districts and defending it by "returning heavy fire" and fire being "put into the apexes" of the wood sheds.

6.46 I have considered what weight should be accorded to these accounts. Obviously, where the maker of an account has given oral evidence in relation to it, and contradicted something said by or attributed to them in the booklet, I have taken that into account. However, broadly speaking, I consider that these accounts should

be given significant weight. They are much closer in time to the events than modern day testimony, albeit still compiled some 20 years afterwards. On the basis of the evidence of Tony McCabe, a number of the accounts (including that of Eyewitness One) were written down and handed in. That allowed for a period of deliberation and consideration. Such accounts were not the result of off-the-cuff remarks but, rather, deliberate composition. As to the accounts which were not provided in this way but were the result of interviews, Mr McCabe brought his own knowledge and skill as a historian to eliciting these accounts and, moreover, gave evidence that the contributors had an opportunity to review and check the accounts for accuracy. He also exercised some editorial and checking function, as indicated by his evidence that he weeded out accounts submitted which he believed to be untrue or uncorroborated by others at the Community House with first-hand knowledge.

6.47 Finally, the accounts provided with expressly put forward by and on behalf of local residents. The Foreword of the booklet described it as being by the people of Springhill and a publication which “documents the events” surrounding the deaths. I am satisfied that the initial publication had a relatively limited audience and readership, being principally for the local community, such that contributors may have been happier to be candid and unguarded in their accounts.

Evidence in relation to paramilitary involvement of deceased and injured

6.48 In light of the case made by the MoD on the basis of the ciphered statements, namely that only gunmen (or those apprehended to be gunmen) were shot, an obvious line of enquiry was whether there was any evidence to suggest that the deceased and injured from 9 July 1972 were involved with paramilitary organisations. There was a variety of evidence in this regard in relation to John Dougal, Brian Petticrew and David McCafferty. There was no such evidence in relation to Fr Fitzpatrick, Patrick Butler or Margaret Gargan. As explained in further detail below, the inquest also had access to a range of intelligence which sounded on these issues. That is addressed separately (see paras 6.100 to 6.110 below). In this section of the ruling, I consider some of the oral and written evidence in relation to these matters and open-source materials (such as photographs and publications) which arose in the course of evidence.

Admissions

6.49 *John Dougal:* It is accepted in submissions on behalf of the next of kin of John Dougal that he was a member of Na Fianna Éireann at the time of his death.

6.50 *Brian Petticrew:* In the course of his evidence, Brian Petticrew also admitted that he was a member of the Fianna in July 1972. He dealt with this in a witness statement of 26 March 2024 which indicated that he joined the organisation in November 1971. (He indicated that, at the time of making an earlier statement for the purposes of the inquest dated 3 January 2023, in which this was not mentioned, he did not have the benefit of legal advice). In oral evidence he denied, as was

suggested in intelligence reporting, that he was a member of the 2nd Battalion of the IRA from early 1972. (Mr Pettigrew's denial in that regard arose from questions being asked in accordance with Ruling No 12 on the deployment of intelligence material.) He turned 16 in June 1971 and was 17 at the time of the incidents being examined in this inquest.

6.51 In the course of his evidence, Mr Petticrew gave some details about the structure of the Fianna, although he asserted his privilege against self-incrimination in relation to a wide range of related matters. He appeared to me to downplay the role of the Fianna and its connection with the IRA. He was asked about a photograph, however, which appeared in the *Belfast Graves* publication showing him, pictured on the Whiterock Road in 1971, with Volunteers Tommy 'Toddler' Tolan, Jim Bryson, John Stone, Alex Crowe, Gerry Kelly, Rab Hall and Jim Logue. He accepted in his evidence that the first three of these were all well-known Republicans and all members of the IRA at one time. He did not think that Rab Hall or Jim Logue were involved in anything. He accepted that he had gone on to be in the IRA in the area in due course.

Obituaries, death notices, tributes and mass cards

6.52 *John Dougal*: There were death notices in a newspaper from the time in relation to John Dougal which suggest that he was a member of the IRA and/or the Fianna. These included notices and tributes from the Brigade Staff Officers and Volunteers of Cumann na mBan; the Officers and Volunteers of 2nd Battalion, Belfast Brigade, Oghlaigh na hEireann (IRA); the Officers and Volunteers of B Company, 2nd Battalion, Belfast Brigade, IRA; and the Officer Board and members of an Cumann Liam McParland (describing him as a Volunteer).

6.53 John Dougal is described as a "Volunteer" and having been "killed in action" in the notices from the Brigade Staff of Cumann na mBan; the 2nd Battalion, IRA; and B Company of the 2nd Battalion, IRA. John Dougal's name also appeared in a Republican Roll of Honour (Liosta Laochra na Poblachta) 1969-2012 published in *An Phoblacht* as a member of Na Fianna Éireann who died on 9 July 1972.

6.54 In an edition of *Republican News* (Vol 2, No 44) published in the week commencing 21 July 1972 - the same publication which carried the timetable later published in the Springhill Massacre booklet and said to have been issued by the IRA (see para 5.17) - it is noted that the "actual losses" (in response to a report carried in the *Sunday Press* on 16 July 1972) were "two Volunteers and two Auxiliaries killed and three Volunteers injured". It is unclear precisely to what incidents this report is referring. However, the segment goes on to note that the Staff of Republican News sincerely regret the deaths of "Vol. John Dougall (2nd Batt.)" and another volunteer and two auxiliaries killed from the 3rd Battalion, "all of Belfast Brigade". Sympathy is extended to their families and "to their Comrades in Arms". Later in the publication there is a picture - which is difficult to see in the copy available but which appears to show part of a funeral - with the caption: "Volunteer

John Dougal 2nd Battalion lying in state. Shot by British Occupied Forces in Ballymurphy.”

6.55 In addition, James Dougal gave evidence (discussed in Chapter 9) about memorial cards which were procured and kept by his grandfather, referring to John Dougal as a Volunteer (albeit spelt incorrectly) of the 2nd Battalion of B Company who was shot dead by Crown Forces.

6.56 *David McCafferty*: There were also death notices in newspapers, including the *Irish News and Belfast Morning News* on 11 July 1972, in relation to David McCafferty bearing the name of a wide range of people and organisations which suggest that David McCafferty was a member of Na Fianna Éireann. These included notices and tributes from the Officers and Fians of the Pearse Sluagh in Ballymurphy; the Officers and Fians of Gerard O’Hare Sluagh, na Fianna Éireann; the Officers and Volunteers of B Company, 3rd Battalion, Belfast Command of the Oglaiġ na hÉireann (IRA) (Clonard); the Belfast Battalion, na Fianna Éireann Girls; the Officers and Volunteers of the Joe McCann Sluagh (describing him as a “comrade”); the Belfast Battalion, na Fianna Éireann Boys; the Officers and Fians of Girls Sluagh Countess Markievicz, 1st Battalion, Belfast Brigade (Ballymurphy); and the Staff and Volunteers of F Company, 2nd Battalion, Official IRA (Ballymurphy) (again describing him as a “comrade”).

6.57 David McCafferty was described as the Junior OC (Officer Commanding) in the notices from the Pearse Sluagh; the O’Hare Sluagh; B Company of the IRA (identifying him as Junior OC of the Pearse Sluagh); the Fianna Girls’ notices; the Belfast Battalion of the Fianna Boys; and F Company of the Official IRA (again identifying him as Junior OC of the Patrick Pearse Sluagh). One notice notes that, “Those who die for Ireland live”; another describing him as a “martyr for Ireland”. There is also a death notice from the Clarke family expressing regrets, including from “Philip Clarke and comrades in Long Kesh”.

Funerals with paramilitary trappings

6.58 *John Dougal*: There was little evidence about the funeral for John Dougal, however his brother gave evidence (discussed in Chapter 9) and mentioned this briefly. He said that it was only after John’s death that he found out that he was in Na Fianna. During the funerals boys who were in the Fianna “walked past in their berets”. He also said that John is buried in the Republican plot at Milltown Cemetery; and there is an inscription on his headstone referring to Na Fianna Éireann, as well as another marble stone in the cemetery which lists him as a Fiann amongst the Republican dead. The MoD also relied upon a newspaper article from an American newspaper in March 1973 in which a reporter had visited the ‘IRA Plot’ in a cemetery in Belfast. This included a tombstone marker referring to John Dougal, aged 16½, of the 2nd Battalion, B Company, a “Volunteer killed in Action on 9-7-72”. When asked about this in evidence, James Dougal, John Dougal’s brother, said he did not know this was on his brother’s grave (although it was also not entirely clear

what type of object the article was referring to). As noted above, the *Republican News* publication published a photograph purporting to show “Volunteer John Dougal 2nd Battalion lying in state”.

6.59 *David McCafferty:* Anne Begley (née McCafferty), the sister of David McCafferty, relied upon her privilege against self-incrimination in relation to questions about her brother’s potential involvement with, or membership of, Na Fianna Éireann. However, in her statement to the inquest, prepared after interview with my investigator, she indicated that there was “some form of paramilitary aspect” to David’s funeral. She was not sure if there was a tricolour draped over the coffin and said there was certainly no gunshots fired over it. (In his evidence, Gerard Kelly also said he had no memory of a tricolour over the coffin or the shots being fired.) David McCafferty Snr gave more evidence about his son’s funeral. He indicated that a man came to his house and said that David was in the Fianna Boys and that they would take care of the funeral. He agreed that a paramilitary funeral then took place. (I received evidence that the man who offered to arrange the funeral may have been called Whelan.) The Brigade Log for 12 July 1972 also supports the suggestion that Fianna uniform was worn at the funeral

Murals and plaques

6.60 In making the case that a number of the deceased or injured were members of unlawful organisations and/or engaging in offensive violence against the army at the time of their being shot (in sympathy with such organisations), the MoD additionally relied upon a range of ‘open source’ materials, that is, publicly available evidence which suggested as much. These points were made particularly forcefully in relation to the content of some mural paintings in Belfast which, it was suggested, were a matter of wide public knowledge and appeared to have gone unchallenged. Pictures or records of the murals were relied upon from the CAIN Directory of Murals.

6.61 John Dougal was listed as a “volunteer” on a monument or plaque “erected by the Republican People of Greater Ballymurphy in proud and loving memory of all those volunteers from the area who gave their lives in the fight for Irish freedom”. Others listed on the same monument are Bobby McCrudden, Jim Bryson, Anne-Marie Petticrew, Paddy Teer and Tommy Tolan, amongst others. (The names also included Sean Doyle, who died in 1944, and Michael Kane, who died in 1970, after whom sluaighs of the Fianna were said to have been named.) The monument says it was unveiled by Gerry Adams on 12 May 1985. John Dougal is also listed as a Fian on a plaque unveiled by Sean Adams and Martin Dudley on 8 August 2009, displayed near Springhill Drive, celebrating the centenary of the formation of the Fianna Éireann and commemorating “our fallen youth from the Ballymurphy area”.

6.62 Reference was also made to a large painted mural at Springhill Drive in memory of “volunteers John Stone, Jason McWilliams, Kevin McCracken and John Dougal”, showing them each in military-style tunics, wearing gloves and holding

rifles, standing in front of what looks to be the building where May's Shop was, at the south-west corner of Corry's Yard wall. (In evidence Brian Petticrew also suggested this looked like the shops at Springhill.) A picture of a plaque was provided which is affixed to that mural, referring to "Oglach John Dougal" and the three others, each of whom was said to have "gave their lives for Ireland's freedom". (The other three men are said, in the CAIN commentary on the mural, to be adult IRA members).

6.63 Another large mural at Springfield Road Belfast contains a roll of honour for B Company, 2nd Battalion, Belfast Brigade of the IRA. It lists John Dougal (again with others such as Bobby McCrudden, Anne Marie Petticrew, Jim Bryson, Paddy Teer, Jim McGrillen and Tommy Tolan). No such murals or plaques were relied upon in respect of David McCafferty.

Other witness or documentary evidence

6.64 A number of witnesses gave evidence which tended to suggest that some of the deceased or injured were members of and/or active in unlawful associations.

6.65 *John Dougal*: There is a passage in the Springhill Massacre Booklet which is attributed to John Dougal's mother. It includes an account that, on one occasion, John Dougal asked his mother if he could bring some of his friends up to the bedroom. She could then hear strange noises coming from the room when she was cleaning, so she burst in "and John had half a dozen young lads standing around the bed holding a Tricolour pledging an oath to the Irish Republic". She said that she got her brush and chased the whole lot out, adding, "He had my heart broken" and that she was "just constantly worried about him". On one occasion, she spoke to Jim Bryson about John "and he assured me that John was only involved in selling papers and things like that". In the evidence of James Dougal, he indicated that his mother had told him both of these stories. Tony McCabe said that, when he was producing the Springhill Massacre pamphlet, he became aware that John Dougal was connected to the Fianna and his family was open about this.

6.66 The MoD also relied upon a number of other open source materials, including published books, which identified John Dougal as a member of the Fianna Éireann. These included *Belfast Graves* (1985, National Graves Association, Belfast) (p 97); De Baróid, *Ballymurphy and the Irish War* (p 173); *Lost Lives* (p 215); *Down North* (p 94). The *Belfast Graves* text is published by the National Graves Association which I understand is a private association which cares for and maintains the graves of some IRA volunteers. Another text, *Children of the Troubles*, suggests that John Dougal "joined the Fianna, and then the IRA" (p 78). This appears to be based on an interview or contribution from his brother, Jim. The CAIN Index of Deaths compiled by Malcolm Sutton lists John Dougal as a member of the IRA Youth Section. A paper prepared by Ciarán MacAirt of Paper Trail entitled 'Casual Collusion and a Tale of Two City Estates' notes that John Dougal was claimed as a Fian of the Provision IRA. John Dougal is also listed as a Fian in the Republican Roll

of Honour 1969-2012, as published by An Phoblacht. In this regard, I note that in the *Bradley Inquest* [2024] NICoroner 30, the coroner made findings that Francis Bradley was engaged in activities on behalf of the IRA having regard, inter alia, to evidence that his name was entered into the IRA roll of honour which described him as a volunteer in County Derry (see para [511] of the findings).

6.67 The entry in relation John Dougal in the *Belfast Graves* publication refers to him being killed “during one of the many gun-battles which marked the end of the 1972 truce between the IRA and the British government”. It notes that British soldiers “backed up by loyalist gunmen, attacked the Ballymurphy estate” and that “during the ensuing battle, in which Fian John Dougal lost his life, five local civilians were also shot”. (There are, it must be said, a number of errors in parts of this entry, including that Angelo Fionda, aged 60, was shot and killed during the incident.) In another book, *The Telling Year: Belfast 1972*, by journalist Malachi O’Doherty (2007, Gill & Macmillan), John Dougal is described as a “16-year-old IRA man” (although this account also suggests that Fr Fitzpatrick was killed whilst praying over Margaret Gargan, which is unsupported by evidence).

6.68 *Brian Petticrew*: There is also a photograph in the *Belfast Graves* book containing Brian Petticrew and identifying him as a “volunteer”, posing with a number of other well-known IRA members. As noted above, in the course of his evidence, Brian Petticrew said that David McCafferty was not involved in his sluagh; but that John Dougal *was* in the same sluagh (the Sean Doyle Sluagh), corroborating John Dougal’s membership of the Fianna at least. (Mr Petticrew denied that a range of others, about whom he was questioned by MoD counsel, were similarly involved in unlawful associations.)

6.69 *David McCafferty*: As noted above, in her witness statement Anne Begley, David McCafferty’s sister, indicated that there was some form of paramilitary aspect to his funeral. She also said in that statement that she knew that David was a member of Fianna Éireann, so the paramilitary aspect to his funeral was not a surprise to her. She declined to adopt these elements of her statement in oral evidence under oath, when she otherwise adopted the rest of the statement. That is because, in accordance with my rulings on the matter, I would not (indeed, could not) require someone giving oral evidence to answer a question which might tend to incriminate them. However, as discussed in Chapter 2, I consider that I am nonetheless entitled to take this information into account since it was communicated to my investigator (and the witness was not *compelled* to provide the information); it was recorded and returned to the witness in a draft statement; and the witness signed that statement along with a declaration of truth as to its contents. In his evidence, Gerard Kelly said he was surprised to hear that David’s sister believed he was a member of the Fianna “as he was such a placid kid” and clever. He himself denied any involvement in such organisations at that time. However, again, Tony McCabe said that, when he was producing the Springhill Massacre pamphlet, he became aware that David McCafferty was connected to the Fianna and his family was open about this.

6.70 In her oral evidence Mrs Begley commented upon a press report from a couple of months before his death (from the *Sunday Independent* on 14 May 1972) which purported to quote from David McCafferty. The report related to circumstances in the Ballymurphy Estate at that time. David McCafferty is described as having been sent from Saint Thomas's School to help the Sisters of Charity because he and others "didn't take an interest in ordinary school work". He is quoted as saying he would like to be a post office worker and that, "I would like to see a free Ireland as well as peace". Mrs Begley had said she had never heard him talk like that and that it did not sound like something her brother would have said. Her father had also commented on that report in his statement. He said he did not believe he had ever seen the article before. He referred to it mentioning that David wanted to be a post office worker. He said he did not know this, although he did not take issue with the indication that David wanted "to see a free Ireland".

6.71 There is a passage in the Springhill Massacre Booklet which is attributed to David McCafferty's mother, Nora. It states that her son "was a member of the Official IRA Junior Wing" who "ignored the whole thing". As to what precisely David McCafferty was doing at or about the time of his death, the MoD placed significant reliance on the clothing which he was wearing at that time, a matter to which I return in Chapter 10.

6.72 In the entry in relation to his death in *Lost Lives*, David McCafferty is noted to be associated with the Official IRA and is said to have been "believed to have been a member of the Official IRA's Fianna". The entry goes on to note, however, that "he was unarmed when he was shot". It continues that his name does not appear on the Republican Roll of Honour but notes that death notices were inserted in the *Irish News* by republican groups including the Joe McCann and Gerard O'Hare Sluaghs.

6.73 The book *Children of the Troubles* (at p 82) also suggests that David McCafferty was a member of the Official IRA's Fianna. His father is quoted as saying that, "All his friends were probably in it", adding that he was killed when he went to help the dying Fr Fitzpatrick. The CAIN 'Index of Deaths from the Conflict in Ireland' compiled by Sutton lists David McCafferty as a member of the Official IRA Youth Section. The MacAirt paper for Paper Trail similarly notes that David McCafferty was claimed as a Fian of the Official IRA. Mr O'Doherty's book also describes him as a 14-year-old member of the Official IRA.

Intelligence material

The use of intelligence material

6.74 There was a range of intelligence material available to the inquest which touched upon the use, or potential use, of violence by paramilitary organisations, or unlawful associations (as they tended to be referred to at the time), at times relevant to this inquest. This included material which was relevant to those organisations'

access to and use of firearms, as well as material relevant to the issue of membership of, or involvement with, those organisations.

6.75 On 27 April 2024 I heard submissions in respect of the admission into evidence of documentary evidence which had not been formally read into evidence. My counsel proposed that all material included in the files and indexes of the inquest papers should be taken into account. There was no objection to this proposal, save for particular submissions which I have in writing in respect of intelligence relevant to Martin Dudley. I indicated that I would proceed on the basis that this was the only objection and that everything in the inquest papers was in front of me and capable of consideration subject to appropriate weight, a matter about which the PIPs could (and did) address me in closing submissions.

6.76 As part of this broader examination of material, I have considered (what can be described as) intelligence material. Such material was provided to the inquest in a number of ways. The PSNI provided five folders of intelligence material. The MoD provided a small number of documents relating to military intelligence matters. Much of the material was generated through the initial disclosure process involving PSNI and MoD. In the first instance, the PSNI was obliged to, and did, provide material to me under section 8 of the Coroners' Act. This obliges the police to provide to the coroner notice of certain deaths "together with such information also in writing as [the relevant officer] is able to obtain concerning the finding of the body or concerning the death". In this case, as is often so in legacy inquests, the initial disclosure provided by the police included sensitive material.

6.77 In addition, in this case I was persuaded to seek additional material from the PSNI, much of which included intelligence material, in order to permit fuller exploration of the MoD case than might otherwise have occurred. This involved searches being made in relation to a number of individuals. The scope and rationale for such further requests were set out in Ruling No 1 ([2023] NICoroner 24) and, to a lesser degree, in Ruling No 3 ([2024] NICoroner 3). I considered this approach to have been supported to some degree by enquiries made in both the Bloody Sunday Inquiry and some other legacy inquests held in recent times. The scope of the requests was limited as described in paras [66] and [71]-[72] of Ruling No 1. (Some of the next of kin had concerns on a variety of bases about this ruling and sought to challenge it by way of judicial review. However, leave to apply for judicial review was refused by Colton J in a written ruling of 24 October 2023: see *Re Gargan and Bulter's Application* [2023] NIKB 103.) The parameters for the further searches were designed to elicit only intelligence material which may be of direct relevance to the contention that weapons were fired at the army personnel stationed in Corry's Yard at or before the time of the deaths which are the subject of this inquest (see para [55] of Ruling No 1).

6.78 These enquiries resulted in further sensitive material being provided. All of the sensitive material was subject to the usual public immunity interest (PII) process, the result of which was that some material was simply excluded from consideration

in the course of the inquest on public interest grounds. It was possible for some proposed PII redactions to be 'rolled back' or for the material to remain redacted but for the effect of that to be mitigated by a gist of the information being provided to PIPs, either on the face of the relevant document or in a separate narrative gist. I did not consider the extent of the remaining redactions to be such that a sufficient inquiry into how the deceased met their deaths was then impossible. These aspects of the inquest were dealt with in Ruling No 11 ([2024] NICoroner 33).

6.79 I examined all the intelligence material considered to be of potential relevance and the extent to which that material should be disclosed. I approved non-disclosure of some material on relevance grounds, some redactions on Article 2 and Article 8 ECHR grounds, and some material being withheld on grounds of PII. Ruling No 11 deals with the procedure adopted, the applicable law, the PSNI and MoD applications for PII and my decision to uphold the PII claims in respect of the PSNI and MoD material. Appropriately redacted intelligence files were disclosed to the PIPs. Only disclosed intelligence material has been considered capable of being included in my consideration of the actions of the PIRA and/or OIRA on 9 July 1972 and the question of whether armed civilians were engaged in attacking the army at Corry's Yard on 9 July 1972.

6.80 Throughout the course of the inquest proceedings, and during the hearing of evidence, I kept under review my decision on non-disclosure of intelligence material and whether it was necessary to revisit any decision on PII, or any of the other, grounds upon which material was withheld. Having done so, I did not decide to make any further disclosure rulings.

6.81 It is appropriate to mention two further issues which arose as a consequence of the disclosure of intelligence material related to civilians. The first issue concerns my ruling that those individuals, for whom intelligence would be disclosed, should have an opportunity to make representations before the redaction of their name was rolled back within the disclosed intelligence materials (see Ruling No 12, paras [20]-[25]). This process led to some representations being made before roll-backs were applied. As part of the management of disclosure of this information, I considered the Article 2 and Article 8 rights (which arose in various guises) of persons affected by the disclosure of the intelligence material (see paras [17]-[27] of Ruling No 12). The second issue, which is not unrelated to the first, concerns the identification of potential witnesses and arises from the search parameter outlined in para [71](ii) of Ruling No 1. It is referred to again at para [27] of Ruling No 12 in the context of the Article 8 rights of individuals so identified, and in the context of my decision that those individuals would not be the subject of further intelligence searches unless they fell within the specific categories outlined in para [66] of Ruling No 1. A number of potential witnesses were identified following this process of identification. The Legacy Investigation Unit (LIU) conducted tracing of those identified, resulting in some engaging with the Coroners' Service and others either not engaging or there not being sufficient information available to allow them to be fully traced.

6.82 Just because intelligence material was obtained and/or was potentially relevant did not, of course, mean that it would or could be deployed in the course of the inquest. That involved a separate exercise of judgement on my part (see the discussion of the two-stage approach, including the later ‘control’ stage, at paras [23]-[27] of Ruling No 1). I addressed the question of deployment of intelligence material more fully in Ruling No 12 in the inquest: see [2024] NICoroner 34. This ruling set out some principles and the general approach which I proposed to adopt and later did adopt.

6.83 I summarized the position in relation to admissibility in para [10] of Ruling No 12 in the following terms:

- “(a) An inquest is not bound by the strict rules of evidence and a coroner may therefore consider material which would not meet the strict rules of evidence in other contexts, the key issue being the weight (if any) to be attributed to this material.
- (b) Notwithstanding this flexibility, there is still a need for information or evidence taken into consideration by a coroner to be relevant. In this context there is a well-recognised distinction between material which is relevant to the facts in issue (in the present context, facts related to the statutory questions which a coroner is required to answer) and material which is relevant only to a witness’s credibility. The latter type of evidence may be admissible but is subject to greater control than the former.
- (c) Even where evidence or information is relevant, it may still be excluded from consideration or deployment upon a range of grounds. These include where it is unfair to permit the evidence or information to be deployed (but bearing in mind the need for fairness to all parties, which may pull in different directions); and where exploration of the issue, because of its collateral and/or controversial nature, would be disproportionate.
- (d) Ascertaining the correct approach – between, on the one hand, excluding evidence or information which is relevant and, on the other hand, admitting it but modifying the weight to be given to it in light of its provenance or of limitations on a party’s ability to challenge it – will require the exercise of discretion

and judgment, taking into account a range of factors mentioned above.”

6.84 In terms of the deployment of intelligence material, I suggested that this included use in at least two ways: (i) being taken into consideration by me in the exercise of my fact-finding function (and being capable of being relied upon by PIPs in their submissions); and (ii) being put to a witness in the course of questioning as calling for a response. The question of specific deployment of material – usually when MoD counsel wished to put it to the witness whom it was said to concern – was addressed on a case-by-case basis during the inquest hearings. In many cases, the issue of deployment at that point turned out not to be contentious or did not require resolution on the basis of competing submissions (without prejudice, of course, to all PIPs’ ability to later make submissions about the weight to be attributed to any potentially relevant material and associated evidence).

6.85 More specific guidance given on the deployment of intelligence material in the course of the present inquest was set out at para [16] of Ruling No 12 in the following terms:

- “(a) The mere fact that information arises through intelligence gathering does not, of itself, mean that it is incapable of being deployed in an inquest in either of the senses described at paras [11]-[12] above.
- (b) The fact that, in most if not all cases, the source of the information and/or its intelligence grading will be unknown will be relevant to the questions of (i) whether it can fairly be put to an individual at all and/or (ii) the weight which will be given to the information if it is capable of being deployed.
- (c) If intelligence material is to be put to a witness with the source and/or grading unknown, it must be borne in mind that it is not, of itself, direct evidence of the matters stated. It is merely evidence that the authorities received information suggesting that something occurred. This means that certain formulations would be inappropriate (such as, “There is evidence to show that you did [x]”; or “The police know that you did [x]”). More appropriate formulations would require to be used (such as, “The police received intelligence suggesting that you did [x]”). Bearing this in mind, consideration should be given to how much reference to the intelligence materials might add,

over and above simply asking the witness, “Did you do [x]?”.

- (d) I recognise that witnesses will be inhibited from challenging the source of intelligence which may have been received in relation to them. I will obviously take that into account. Generally speaking, however, the basic requirements of fairness are likely to be met if the witness has the opportunity to respond to the substance of the intelligence. They may then accept its contents, deny its contents, or rely upon their privilege against self-incrimination where that arises (which might well be often in this context) and decline to answer.
- (e) Notwithstanding the above, the guiding principle in relation to deployment must be an assessment of how relevant the material is to the issues which I am required to resolve in this inquest. That should be addressed taking into consideration the further matters mentioned below.
- (f) Deployment in either sense is much less likely to be permitted where the information is collateral to the events which are the focus of this inquest. This is particularly so where the intelligence relates to a separate event, where the relevance or materiality of the information would depend to some degree upon the conduct of a satellite fact-finding inquiry. The inquest is concerned with what happened at the time of the deceased’s deaths; not what others were doing around that time.
- (g) Deployment is also less likely to be permitted where the substance of the information post-dates the events with which these inquests are centrally concerned, for the reasons summarised in para [73] of Ruling No 1.
- (h) In my present view, the product of the intelligence searches conducted does not, save perhaps in some limited respects, speak directly to the events of 9 July 1972 (i.e. there is little by way of intelligence falling within category (i) described in para [71] of Ruling No 1). Therefore, the most relevant aspects

of it are likely to be those which suggest that a person was or may have been a member of an unlawful association at the time of their participation in the events with which this inquest is concerned, for the reasons summarised in para [65] of Ruling No 1.”

6.86 The Bloody Sunday Inquiry recognized that intelligence suggesting that someone was a member of a paramilitary organisation (or involved in its activities) was merely *suggestive* of that and not probative (see the portion of the relevant ruling cited at para [34] of Ruling No 1). It did not permit such material, without more, to be deployed to challenge credibility alone. I agreed with that position. However, I considered that such material could be relevant and deployable where it went to an issue which was directly relevant to the matters in issue in this inquest, including the propensity of certain persons to engage in unlawful violence. As I set out in para [65] of Ruling No 1:

“... whether an individual was or was not a member of a proscribed organisation is, in my view, likely to speak to the probability of their having access to a weapon and/or firing it at military personnel. I say this for three reasons. Firstly, membership of a proscribed organisation is at least suggestive of a willingness to act illegally in pursuit of a political viewpoint. Secondly, such organisations are likely to have had more ready access to weaponry than other civilians and to have deployed them (if at all) for use by their members. Thirdly, in the particular circumstances of this inquest, there is a suggestion (contained in the Foreword to the Springhill Massacre booklet) that the events in question followed an express statement from the headquarters of the Provisional IRA to the effect that “all IRA units have been instructed to resume offensive action”. Accordingly, the searches should also be directed towards information suggesting membership or participation in the activities of a proscribed organisation at a time relevant to the inquest proceedings.”

6.87 I also accepted the thrust of the next of kin’s submission that the relevance of any involvement in proscribed organisations some time *after* the events of 9 July 1972 is greatly reduced: firstly, because it relates to a period after the events this inquest is examining and, secondly, because it is a known feature of highly contentious events such as those considered in this inquest that individuals can be radicalised by what has happened or by their or their community’s perception of what has happened. The proper focus, therefore, was on information suggesting that relevant persons were a member of such an organisation *before or at the time* of the shootings in question, or only a short time afterwards.

6.88 Even where intelligence material was relevant and deployable, there remained a question of what weight (if any) ought to be attributed to it. This can really only be assessed on a case-by-case basis and has been addressed in that way in my consideration of the evidence. I acknowledge that such information is difficult to test in that, for reasons of national security, in all but highly exceptional cases the source of the information will not be known or cannot be acknowledged or disclosed. However, in most if not all cases, witnesses were given an opportunity to respond to the intelligence material (or a gist of it) which had been disclosed in relation to them, usually in a witness bundle disclosed to them in advance of their evidence. Many witnesses expressly denied the content of intelligence material relating to them. Where they did so, their evidence has obviously been taken into account in considering the weight, if any, to be given to the relevant intelligence. Several other witnesses responded simply by relying on their privilege against self-incrimination.

6.89 One discrete issue warrants mention in this context. The MoD submitted that certain intelligence material should be afforded greater weight since, in its submission, it was clear that such material (in some instances) came from the very person who was implicated in an admission against self-interest; and/or it was clear that it came from questioning or interview following an arrest in the course of internment processes, such that it formed part of a wider legal proceeding. The MoD wished to put to certain witnesses that they had, in fact, admitted membership or involvement in certain unlawful organisations. I did not permit that for a variety of reasons which were set out in detail in correspondence from my solicitor to the PIPs during the course of the hearings when this issue arose.

6.90 The determination reached on the above matter took into consideration a range of CLOSED submissions from the PSNI. In no instance where this arose was I persuaded that the role of the individual was of such central significance (over and above that of others in respect of whom intelligence material had been provided), or that the precise information sought to be relied upon was of such immediate importance to the issues for determination in this inquest, that an exceptional shift in the PII balancing exercise was appropriate. The almost invariable general rule is that sources are not disclosed for reasons which are well-rehearsed, including those of source protection and protection of the methodologies of information-gathering by the security agencies. The fact that it was a state party which wished to establish and rely upon the source of sensitive material in OPEN did not alter that. In my view there was nothing extraordinary about the present case, or the information concerned, which warranted a departure from the approach adopted when the Secretary of State's claim for PII was upheld.

6.91 I note in passing that the recent decision of the Supreme Court in *Re Secretary of State for Northern Ireland's Application* [2025] UKSC 47 fortifies me as to the correctness of my earlier view. In light of the approach adopted by many witnesses to the content of intelligence material put to them, namely to exercise their privilege against self-incrimination and decline to respond (or, in some instances, simply to

deny its correctness), and the inherent limitations in relying on untested intelligence material or resolving a collateral factual dispute where it is challenged, I did not consider it remotely the case that the public interest in disclosure of sources outweighed the public interest advanced in the PII certificate (and which usually prevails) that source protection should be jealously guarded.

6.92 John O'Donoghue's evidence provided an example of some of the difficulties which could arise on the approach suggested by the MoD. Unusually, in his case a gist was agreed which suggested that he *had* made an admission at some point to a third party that he had been a member of the IRA at or before the relevant time (see para 10.113 in Chapter 10). Further details of the alleged admission were not gisted. However, he not only denied any involvement in unlawful activity but denied ever having made any such admission, going so far as to say that this had been fabricated by the security forces. It would be entirely disproportionate, and an entirely collateral enquiry, to seek to resolve a disputed issue of fact as to that in the course of these inquest proceedings. A similar issue would also have arisen in relation to intelligence material in relation to Brian Petticrew, since it was made clear in submissions on his behalf that, were it suggested to him, he would deny that he was the source of the information contained within any document which might be put to him from the PSNI sensitive disclosure.

6.93 This underscores the difficulty in seeking to attribute intelligence to a source when, where this is contested, the inquest lacks the tools to resolve that collateral issue or to do so in a way which is proportionate to its overall inquiry. Although it did not arise in the course of Gerard Kelly's evidence, his book *Painting My Community*, which was otherwise relied upon by the MoD, alleged harassment, assault and inhuman and degrading treatment by soldiers when civilians were arrested (see pp 11-14). This could be suggested to result in unreliable information being provided through threat or inducement. The chapter also suggests that those so arrested would provide "bum" names and addresses in order to protect the true identity of their associates.

Limited intelligence material of direct relevance

6.94 One of the reasons why I directed further enquiries of the PSNI in Ruling No 1 was because it was possible that there may be evidence which was *highly relevant* to the issue of weapons being fired at army personnel stationed in Corry's Yard at or before the time of the deaths which are the subject of this inquest (see para [55] of Ruling No 1). In the event, there was little or no intelligence material falling into this category, that is to say which purported to provide direct information about the alleged shooting at the army on that occasion. Within the disclosed intelligence material, there were no documents which directly indicated that the IRA had been engaged in an armed attack on Corry's Yard on 9 July 1972 at or before the time the deaths occurred, as previously explained in para [16](h) of Ruling No 12 (quoted at para 6.82 above).

6.95 A potential exception to the above was an unattributed intelligence report (marked July 1972 and typed on 10 July 1972) which stated that IRA gunmen were using an M1 carbine and firing from Springhill to the army post at JP Corry's, Springfield Road. There is, however, no indication as to whether the intelligence of IRA gunmen shooting at Corry's relates to the time of the deaths, if it *precedes* the army firing from the wood yard on 9 July 1972, or if it *succeeds* the deaths (in that it may have been after the deaths occurred but before midnight on 9 July 1972). It may be worth observing that the intelligence report follows from other intelligence, on the same report, which describes IRA activity on 9 July 1972 in Lenadoon, involving James Bryson and Tommy Tolan.

6.96 I have not been provided with any intelligence to directly connect any of the deceased or injured to armed IRA activity specifically on 9 July 1972 or to any attack on Corry's Yard on that date (with the possible exception of Martin Dudley, discussed further below: see para 6.106). There is also no intelligence material to indicate that any civilian witnesses were actively involved in specified paramilitary activity around the time or location of the deaths. Such intelligence material as has been disclosed in relation to witnesses or others who may have been in the vicinity at the time of the deaths is much more general, alleging involvement in unlawful organisations or unlawful activities at other times.

6.97 Within that, there is a considerable body of intelligence linking some of the deceased and injured (and some of the civilian witnesses or others in attendance) to membership of an unlawful organisation in and around the 1972 period. In the cases of John Dougal, Brian Petticrew and David McCafferty, this is supported by other evidence which is discussed above. In some other instances there is also corroborating evidence, discussed below.

6.98 In determining the source and the circumstances in which the fatal gunshots were discharged, I have examined the circumstances pertaining in Springhill at or about the time of the deaths, with reference to, among other matters, whether the deceased were killed by gunfire from Republican and/or Loyalist paramilitaries. With the exception of the reporting mentioned in the next paragraph, there is no intelligence to suggest that the shots which killed the deceased were discharged from weapons other than those of the army. There is also no intelligence material suggesting that the shots were *from* the army. That is simply not addressed in the intelligence materials made available.

6.99 There is one intelligence report which suggests a UVF gunman fired from Springmartin to New Barnsley resulting in a 13-year-old girl being killed. This report is from January 1974. It suggests that the incident occurred about two years previously and that a priest was shot at the same time. I address this in Chapter 11.

Intelligence re deceased and injured

6.100 *John Dougal (intelligence)*: There is intelligence to indicate that John Dougal was a section leader in the Sean Doyle Sluagh (of the 2nd Battalion of the Provisional IRA Fianna) and involved in recruiting members of the sluagh in March 1972, including swearing someone in. This intelligence appears to me to be clearly corroborated both by the admission on the part of John Dougal's next of kin that he was a member of the Fianna and the evidence (albeit hearsay) from his mother in the Springhill Massacre booklet that she had interrupted an event consistent with him recruiting other youths into the organisation. On this occasion, it seems that the intelligence is likely to be reliable (at least in that respect).

6.101 In the army radio logs, John Dougal was identified as the section leader of the Sean Doyle Sluagh the day after the shootings (serial 180 on the Brigade Log on 10 July 1972), indicating that this was either intelligence or other information available to the army at that point.

6.102 *David McCafferty (intelligence)*: The entry in the Brigade Log around 11.00 am on 10 July 1972, by which 1 Kings informed the Brigade of their belief that John Dougal and Brian Petticrew were involved in the Fianna and Martin Dudley in the IRA made no mention of David McCafferty. Nor has any intelligence information been disclosed in relation to him. It appears that there was *no intelligence* relevant to him or any activities on his part. The suggestion that he was involved in the OIRA Fianna all arises from open material.

6.103 *Brian Petticrew (intelligence)*: As noted above, Brian Petticrew admitted in the course of the inquest that he was a member of the Fianna in July 1972. However, he denied, contrary to what was suggested in intelligence reporting, that he was a member of F Company of the 2nd Battalion of the IRA from 1972 and for about four weeks before he was shot. Some of the content of this reporting suggests that the source was well-placed to provide detailed information about Brian Petticrew. An intelligence document otherwise relied upon in certain aspects by the MoD reports that on 9 July 1972 Brian Petticrew "received gunshot wounds to his body while standing at the door of his home". Mr Petticrew also denied that the Fianna was involved with firearms. Intelligence was put to him that the Sean Doyle Sluagh, of which he was accepted he was part, had a .45 revolver and a .22 revolver. This came from reporting which also named Mr Petticrew as a recruiting officer, which he also denied. Although Mr Petticrew denied these aspects, his admission as to Fianna membership is corroboration of a key element of the reporting. In the army radio logs, Brian Petticrew was identified as a Fian the day after the shootings (serial 180 on the Brigade Log on 10 July 1972). Again, this indicates that the army had access to certain intelligence or information in relation to Mr Petticrew at that time.

6.104 *Brian Petticrew (other information)*: As also noted above, in the *Belfast Graves* book, there is a photograph of "Belfast republicans" pictured together on the Whiterock Road in 1971 including "Vols" (Volunteers) Tommy 'Toddler' Tolan, Jim

Bryson, John Stone, Alex Crowe, Gerry Kelly, *Brian Pettigrew*, Rab Hall and Jim Logue. It seemed to me that there was very little which might be said in the way of an innocent explanation for this photograph or Brian Petticrew's inclusion in it along with others who were admitted, or are now known to have been, IRA members. In 1977 Brian Petticrew was convicted of membership of the IRA, along with offences of robbery and possession of offensive weapons with intent; and served his period of imprisonment on the 'IRA Wing' in prison. I consider there to be a good chance that the intelligence suggesting he had recently moved into the IRA at the relevant time may have been correct. The MoD also relied upon the fact that Mr Petticrew (using his nickname 'Brew Jimmy') and Martin Dudley ('Dud') together placed a memorial to John Dougal in a newspaper on the anniversary of his death, although it seemed to me that little could be read into this. Mr Petticrew's oral evidence is discussed in detail in Chapter 9.

6.105 *Martin Dudley (intelligence)*: There was a range of intelligence material relating to Martin Dudley which was relied upon in the MoD's closing submissions. His representatives filed responding submissions making the case that none of this intelligence material was properly deployable. I agreed with that submission in respect of the content of some of that material (including, for instance, reporting in November 1971) on the basis that it alleged matters which were entirely collateral to the events under consideration in the inquest. Other material significantly post-dated the events and did not, in my view, speak to possible actions or involvement at the time. I did consider deployable some intelligence from early 1972, which pre-dated the incidents, and which suggested that Martin Dudley was actively involved in the PIRA and had access to weapons, which was therefore directly relevant to the MoD case that Mr Dudley was part of the armed IRA gang that attacked Corry's, and was shot as a result of the actions he undertook. I did not consider that this material was rendered incapable of deployment simply because Mr Dudley was unable to attend and give evidence about it. The lack of an opportunity to challenge the material in that way, as applied also in the case of the deceased, would go to the weight (if any) to be given to the material. In addition, Mr Dudley, because of his status as a PIP, was legally represented and able to make submissions about the material, as his counsel did. Some of the objections related to open material relied upon by the MoD. I did not consider there could be any objection to reliance on those matters since, as open evidence, the same issues of deployability and fairness as arose in relation to intelligence information did not arise in respect of them.

6.106 There was an unattributed intelligence report which stated that Martin Dudley was "shot in head at New Barnsley on 9.7.1972". It then went on to say: "he was using an M1 Carbine" and that "this weapon was removed by a priest who was on the scene". This reads as though Mr Dudley was using the Carbine at the time he was shot. If that intelligence was referring to the same incident as that which was the subject of the intelligence report noted at para 6.95 above, it may be possible to suggest that there was intelligence suggesting that Martin Dudley was using an M1 Carbine and shooting at Corry's Yard. There is nothing to suggest, however, that the two reports are linked or referring to the same incident, other than the fact that an

M1 Carbine is mentioned in each. However, the intelligence may be taken to suggest that Mr Dudley was armed (and potentially firing: “using” the weapon) at the time of being shot. The reference to New Barnsley is, of course, inaccurate. I return to this intelligence in Chapter 9.

6.107 Additionally, there was a narrative gist of intelligence which was disclosed on 22 April 2024. It includes the following gist of sensitive material: “Information was received in early 1972 which indicated that Martin Dudley was actively involved in the PIRA and had access to weapons”. In the army radio logs, Martin Dudley was identified as an IRA volunteer the day after the shootings (serial 180 on the Brigade Log on 10 July 1972).

6.108 *Martin Dudley (other information)*: The MoD also relied upon the fact that, in 1973, Martin Dudley, along with Brian Petticrew, placed a memorial in a newspaper honour of John Dougal; and that, in August 2009, he unveiled a plaque commemorating the Fianna.

6.109 *Fr Fitzpatrick*: In relation to Fr Fitzpatrick, there is a reference in the intelligence report relating to Martin Dudley (discussed at para 6.106 above) suggesting that “a priest” who was on the scene had removed a weapon. This entry did not specifically identify Fr Fitzpatrick. I return to it in Chapter 10. The same intelligence document notes, in a separate entry immediately after that relating to Martin Dudley, that, “A man called Father Noel Fitzpatrick, Ballymurphy Road was shot dead at New Barnsley”. Within the PSNI sensitive disclosure, there was also a photocopy of a handwritten document, within materials provided by the HET, which has a picture of Fr Fitzpatrick, his name and the following annotation: “Was shot dead in Belfast on 15 Jun 1972 giving last rights [sic] to a wounded man. Was a well known member of the Official IRA.” I understand that one of my counsel asked the PSNI about this document when he first reviewed the sensitive materials and there was no other information held as to what this document was or where it came from. The information is not recorded on an intelligence document. It seems to be nothing more than a handwritten note, with no provenance or grading. It was not referenced or relied upon by the MoD in submissions.

6.110 *Patrick Butler and Margaret Gargan*: There was no intelligence material whatever relating to Patrick Butler or Margaret Gargan.

Evidence and intelligence material *re* witnesses and others present

6.111 There was a range of intelligence materials, and other information or evidence, suggesting actual or potential paramilitary involvement on the part of a variety of other persons who gave evidence in this inquest or featured in it, including quite a number of persons in or around the turning circle, or the wider area, at the time when shooting appears to have commenced or shortly after that. I make reference to such information below, seeking to distinguish between circumstances where this was contained only in intelligence materials disclosed in

the course of the inquest in accordance with the processes above, and those where it was based on other evidence or open information, or both.

6.112 *Martin Mulligan (intelligence)*: As discussed in Chapter 9, Patrick Butler gave evidence that, on 9 July 1972, he saw Martin Dudley get into a car with Martin Mulligan and a third unknown male and drive on Westrock Drive towards the bungalows, where they met another car which was travelling in the opposite direction. A short time later firing started and one of the cars drove off to safety, stopping close to Patrick Butler's house. At least two people got out and went to the corner of 49 Westrock Drive. Martin Dudley had been shot and had fallen out of the other car. Martin Mulligan made it back to Butler's house.

6.113 In April 1972 there was intelligence to indicate that Martin Mulligan, then 15 years old, was an OC of Fianna and that Brian Petticrew, 16 years old, was the Adjutant. (As noted on several occasions above, Brian Petticrew admitted that he was a member of Fianna in 1972, corroborating at least one element of this reporting.) Another report suggests that, in October 1972, Mr Mulligan was the Assistant OC of the Provisional Fianna in the Whiterock area. Reporting in 1973 and into 1974 indicated that Mr Mulligan was involved in moving arms and, in 1973, had moved into the IRA. In 1973 there was intelligence to indicate that Martin Mulligan was heavily involved in terrorist activity, although in incidents which are entirely collateral to the events in Springhill. Also in 1973 there was intelligence that he was using a house at 33 Whiterock Drive to store munitions and that his home at 68 Whiterock Drive was used for storing weapons and for giving gun lectures.

6.114 When one considers the evidence of Patrick Butler in conjunction with Mr Mulligan's 1973 account of being caught between the cars while walking up Westrock Drive, questions as to the truthfulness of the 1973 account arise. Unfortunately, Mr Mulligan was not well enough to give evidence to the inquest and so he has not had an opportunity to address the contradiction, nor to respond to the content of the intelligence materials which would have been deployable in relation to him. He made a statement in which he adds to this 1973 account that he was with a friend, but does not recall who, when he became caught up in the shooting at the vehicles. I return to this in Chapter 9.

6.115 *Brian Kelly/O'Kelly (intelligence)*: Brian O'Kelly was an important witness in relation to incident 2 in this inquest. I understand that, in July 1972, he was known by the surname Kelly instead of O'Kelly (which he adopted later). His evidence is discussed in detail in Chapter 10. Along with the intelligence indicating that John Dougal was a section leader in the Sean Doyle Sluagh and involved in recruiting members of that sluagh in March 1972 (for which there is some corroboration), there was also intelligence listing Brian Kelly as a 15 year old volunteer in the sluagh; and reporting in April 1972 that he was the finance officer of the sluagh. Curiously, there was also intelligence reporting from 20 July 1972 suggesting that Mr Kelly was then a member of the OIRA Fianna in the Whiterock area. Mr Kelly vehemently denied all such matters that were put to him in his oral evidence.

6.116 *Gerard Heath (intelligence)*: Gerard Heath gave evidence that he was in Westrock Drive during shooting from Corry's. There is intelligence to indicate he was a member of the Michael Kane Sluagh in September 1972, along with Gerard Kelly, John Fusco and Robert Russell. This obviously post-dates the incident. (The intelligence report, however, refers to John Dougal, "shot dead 9.7.72", having been a member of the sluagh; and there was a suggestion that the Sean Doyle Sluagh was re-named after Michael Kane at one point). Mr Heath exercised his privilege against self-incrimination when asked about these matters.

6.117 *Joseph McElkerney (intelligence and other information)*: Joseph McElkerney (now deceased) was referenced by Gerard Heath as being with him in the Springhill/Westrock area at the time of the shooting from Corry's Yard. There is intelligence from March 1972 to indicate that he was a volunteer in the Sean Doyle Sluagh at the same time as Brian Petticrew and John Dougal. That reporting has been shown to be reliable insofar as Brian Petticrew has admitted such membership and it has been admitted on John Dougal's behalf by his next of kin. There is other reporting linking Mr McElkerney to the Michael Kane Sluagh in September 1972 and to attending gun lessons on a .45 revolver and .38 Smith and Wesson in October 1971 and March 1972. As Mr McElkerney is deceased, he obviously was not in a position to give evidence or respond to the content of the intelligence material relating to him. Information within the PSNI sensitive disclosure also indicated that, in 1975, Mr McElkerney carried out an armed robbery at the Northern Bank in Andersonstown, after which he served a prison sentence and was accepted into the IRSP compound.

6.118 *Robert Russell (intelligence and other information)*: Robert Russell gave evidence that he was initially in the ex-servicemen's club and then in the area of Brian Petticrew's house about the time of shooting from Corry's Yard. There is intelligence material suggesting that he was a member of Sean Doyle Sluagh of the Fianna in April 1972; later, a member of the Michael Kane Sluagh in September 1972, along with Joe McElkerney, Gerard Kelly and John Fusco; and a training officer for the Fianna in September 1973 in the Ballymurphy, Westrock and Whiterock areas. There is significant intelligence reporting in relation to him. He exercised his privilege against self-incrimination when asked about these intelligence matters. He had two convictions for attempted murder of a senior police officer, which were later quashed. However, he spent his time in prison on the IRA wing and was a Maze escapee. I found elements of his evidence, discussed in detail in Chapter 10, to be clearly supportive of his involvement in unlawful activities.

6.119 *Bobby McCrudden (other information)*: Bobby McCrudden is one of those who is described, in Brian Petticrew's account in the Springhill Massacre booklet, as being at his house about half an hour after he was shot. The account notes that Mr McCrudden was "killed on active service" only three weeks later, on 3 August 1972. He is listed on the B Company, 2nd Battalion, IRA roll of honour mural referred to above. He is also listed on a memorial unveiled by Gerry Adams in May 1985 as one of the volunteers from the area who gave their lives in the fight for Irish freedom".

The *Lost Lives* entry in relation to him describes him as a member of the 2nd Battalion of the IRA's Belfast Brigade, noting that he was fatally injured when a soldier shot him in Ardoyne in early August 1972. The soldier said he appeared to have a rifle. The *Belfast Graves* publication described him as an active IRA volunteer who took part in several operations, saying again that he died on active service. It described him as having joined F Company, 2nd Battalion of the local sluagh of Fianna Éireann but that "within a couple of months" he was accepted as a volunteer in B Company of the IRA.

6.120 *John Fusco (intelligence)*: John Fusco gave evidence that he was in Margaret Norney's house at 92 Westrock Drive when shooting began from Corry's Yard. There is intelligence material that in September 1972 he too was a member of the Michael Kane Sluagh along with Joe McElkerney, Gerry Kelly and Robert Russell; and that he would act as a look-out, along with three others, including Paddy McManus. Intelligence also indicates that he may have moved from that sluagh into the PIRA by September 1972. Reporting from 1973 indicated that he was involved with the PIRA and was a sniper in the Lower Falls area. This intelligence material all post-dates the incident in July 1972 but, if correct, would suggest significant terrorist involvement. I received submissions on behalf of Mr Fusco that the intelligence should not be deployed but concluded that it could be consistently with the principles I had set out, particularly since he was present at a location close to where a gunman had been identified in the ciphered statements and given the proximity in time of the intelligence to the matters under investigation. The intelligence was put to Mr Fusco in the course of his evidence which he either denied or in response to which he exercised his privilege against self-incrimination. His evidence is discussed in Chapter 10.

6.121 *John O'Donoghue (intelligence)*: John O'Donoghue also gave evidence that he was at Margaret Norney's house (babysitting) in the Springhill flats when the shooting from Corry's was occurring. He denied that he made any admission to security forces that he was a member of the Fianna in July 1971 or that he moved to B Company PIRA a short time later. Mr O'Donoghue also denied intelligence material suggesting that he was an Adjutant of B Company, 2nd Battalion, PIRA in January 1972. He was asked if he knew another member of B Company at that time, Thomas Tolan, which he also denied. He was asked why anyone would give his name and he said that he could not understand any reason why anyone would name him. Mr O'Donoghue also denied further intelligence reports linking him to IRA activity, including that he was a section leader in B Company in August 1972. (One of those reports, from August 1972, also identified Richard O'Rawe as a volunteer and, to that extent, is corroborated by Mr O'Rawe's own evidence.)

6.122 *Gerard Kelly (other information)*: Gerard Kelly gave evidence that he was in Springhill Avenue, Westrock during the shooting from Corry's. Intelligence material which it was originally considered may relate to him was not deployed as, after further enquiry, it seemed that it may relate to someone else with the same or a similar name. In his oral evidence, Mr Kelly was asked about whether he was a

member of any unlawful organisations in July 1972. He stated that he was not. He was asked about his knowledge of others and their suspected membership of unlawful organisations in Springhill and Westrock in July 1972. Mr Kelly either denied the individuals were members or exercised his privilege against self-incrimination. Mr Kelly also exercised his privilege against self-incrimination when asked about references in his book 'Painting My Community' to IRA and Fianna activity in the Springhill area. However, I believed the content of his published book clearly suggested that he was, at least, a member of the Fianna sometime before July 1972 (see paras 10.158 to 10.159).

6.123 *John Petticrew (intelligence):* John Petticrew was not a witness in the inquest as he is deceased. However, he was the brother of Brian Petticrew and, on his evidence, in the company of John Dougal very shortly before John Dougal was shot. There was significant intelligence reporting in relation to John Petticrew. This included a report in March 1972 that he was the OC of the Sean Doyle Sluagh; that he was a section leader in the IRA by September of that year and was involved in using weapons, including by sniping at the army. The reporting from March 1972 in relation to his holding officer rank in the sluagh was assessed by the police (in later internment papers) to be "very reliable", with other reporting in relation to his activity at that time also assessed as being reliable. (The form in which this information was disclosed meant that, in contrast to some other intelligence material made available to the inquest, the authorities' view of its reliability was evident.) Intelligence also suggested that in September 1972 he was frequenting a property in Whiterock Gardens where munitions were stored. There was later intelligence from January 1974 indicating that John Pettigrew was the OC, F Company, 2nd Battalion, PIRA. Since John Petticrew was deceased, his brothers (Brian and Martin) were each asked some questions about his affiliations in the course of their evidence. A report typed on 6 September 1972 indicated that the weapons for O'Donoghue's section (believed to be John O'Donoghue, identified as a section leader) were looked after by John Petticrew.

6.124 *John Petticrew (other information):* John Petticrew was shown on a large mural which his brother, Martin Petticrew, accepted in evidence showed his brother. He said this was at Beechview Park. In the foreground of the mural is Joe Cahill, a well-known senior IRA member, with his two brothers. (Others pictured in the mural whose names came up in evidence in the course of the inquest were Ned Maguire and Billy Mills. Alex Crowe is also pictured. Martin Petticrew's evidence was that nearly all of the people in this mural were from Westrock and he gave evidence about where some of the families lived in the area.) There is a quote from Bobby Sands highlighted in the middle of the mural: "Never will they label our liberation struggle as criminal." In Brian Petticrew's evidence, he appeared to me to essentially accept that his brother John was involved with the Fianna and/or the IRA.

6.125 The MoD case was to the effect that the Petticrew family was heavily involved in the Republican movement and armed insurrection: in particular, the three oldest siblings John, Anne-Marie and Brian. Kathleen Petticrew (Brian and John's sister)

was listed as someone who “assisted, resourced and gave selflessly to the Republican Cause” on a plaque. (Their next-door neighbour, Kate Campbell, was also listed on this plaque. In his evidence, Martin McShane was asked about the plaque at and said he recognized the gable wall and some faces on the plaque. He said probably most of the names were recognized by him as living in and around him in Westrock, although there were a lot of names he did not know or recognize). In submissions, counsel for the NOK said this plaque took the MoD nowhere, since it merely thanked people whose contribution could be entirely benign. I considered there to be some force in that submission. More pertinently, Anne-Marie Petticrew was listed on the large memorial to B Coy, 2nd Battalion, Belfast Brigade of Óglaigh na hÉireann, including other well-known IRA members such as Jim Bryson and Tommy Tolan, Bobby McCrudden and Patrick Mulvenna (and, for the purposes of this inquest, John Dougal and Paddy Teer). There was no dispute that Anne-Marie was killed, aged 19, in September 1973 when she was blown up by a bomb which she was transporting.

6.126 *Richard O’Rawe (admission, intelligence and other information):* Richard O’Rawe (who had previously provisionally been ciphered as ‘SC7’) provided a statement dated 20 April 2024 in which he said that on 9 July 1972 he was a member of the IRA, having joined in or about April 1971. He said that, at the relevant time, he was a Section Officer. He was therefore a self-confessed section leader in the IRA in July 1972. This corroborates intelligence to the same effect, identifying Mr O’Rawe as a section leader in February 1972. He gave evidence to the inquest on 22 April 2024 and elaborated that his role as a Section Leader was in B Company of the IRA. B Coy of the 2nd Battalion PIRA operated, among other areas, in Springhill in July 1972. It was under the command of Jim Bryson, as Mr O’Rawe confirmed in evidence.

6.127 Mr O’Rawe exercised his privilege against self-incrimination in respect of many other questions about IRA activity in the Springhill area at that time or generally. An intelligence report typed on 10 July 1972 suggested that he had brought weapons and ammunition to a house in the New Barnsley area prior to 9 July 1972. In his evidence, he stated he did not know anything about specific actions, including the breakdown of the ceasefire on 9 July 1972, IRA activity in Lenadon on 9 July 1972, or the shooting of two soldiers on that same date. He exercised his privilege in respect of the IRA training of 14-year-old boys in the use of weapons and the interaction between the senior and junior wings of the IRA. He was also unable to provide any indication with regard to who might be able to assist me to find out about any IRA activities in the Springhill area on 9 July 1972. In light of his acknowledged role at the time, I did not believe that he was actually unable to provide any material assistance in this regard.

6.128 *Paddy McManus (intelligence):* There was evidence from some civilian witnesses placing Paddy McManus in and around the two cars which stopped on Westrock Drive. There was intelligence supporting in September 1972 that he was a member of the Michael Kane Sluagh along with other persons in or around the Springhill area that day (John Fusco, Robert Russell, Gerard Heath, John Dougal and

Joe McElkerney). The intelligence from that time, but reporting on matters back in May 1972, described Mr McManus as being part of a lookout team. As Mr McManus is deceased, he was not available to give evidence or comment on the content of the intelligence material.

6.129 *Thomas (Tommy) Ramsey (intelligence and other information):* In his evidence, Thomas Ramsey described walking down from his home in Springfield Crescent to Westrock Drive at the time of shooting from Corry's Yard. There was intelligence material suggesting that, in December 1971, Mr Ramsey's house was being used for arms lectures and that he was a member of the OIRA in Ballymurphy. When this was put to him, Mr Ramsey initially declined to answer the question but also went on to deny the suggestion. Later intelligence reports suggested that, by January 1974, he had moved to the IRA, soon rising to be OC of F Company, 2 Battalion, PIRA. When arrested and interviewed on a number of occasions at the time, he persistently denied any such involvement. (However, after a full hearing in 1974 with oral evidence and legal representation before a Commissioner on appeal against his internment the Commissioner concluded that his detention was necessary because he accepted evidence that Mr Ramsey was "a considerable organiser and leader concerned amongst the young of his community, but with promoting terrorism as well...". The Commissioner concluded he was not *very* dangerous and might be favourably considered for release if the local situation improved; but found Mr Ramsey's evidence "quite unacceptable".) The note of Richard O'Rawe's interview with HET officers suggests that Tommy Ramsey was a PIRA section leader operating in Ballymurphy at the time (although Mr O'Rawe later said that the content of this detailed note was "inaccurate and nonsense").

6.130 *Jim Bryson (intelligence and other information):* Eyewitness One's account stated that Jim Bryson came onto the scene at Westrock Drive at a time which appears to have been before Fr Fitzpatrick was killed. Martin Petticrew also gave evidence that at some point on the night of 9/10 July 1972 Jim Bryson came into their house. There was a range of intelligence material relating to Jim Bryson from the period preceding the events of 9 July 1972 indicating an active and senior leadership role in the PIRA and including intelligence that he had been responsible for the shooting of a soldier at Henry Taggart Hall. Intelligence suggested that he was the OC of B Company, 2nd Battalion, IRA in summer 1972. A gist of PII material indicated that there was intelligence that, throughout 1971, he was involved in recruiting and training PIRA members, which included training in the use of firearms. Leaving aside any intelligence, however, there was open evidence suggesting he played such a role.

6.131 Jim Bryson was described by Brian O'Kelly in his evidence as a name that was known in Ballymurphy "by everybody" because he was a person of interest to the British Army, about whom individuals would be asked if stopped. Intelligence linked him to the bombing of a pub. John Fusco said he had heard of Jim Bryson who was a well-known IRA figure in Ballymurphy. There was other evidence available to the inquest identifying Bryson as an IRA member. This included SM57 who recounted an incident of following "the well-known terrorist James Bryson"

into Springhill Avenue. The notes of Tommy Ramsey's HET interview suggest that, during the ceasefire, he would have openly carried a gun. In the *Belfast Graves* publication it is stated that Jim Bryson "joined the ranks of Oglagh na hEireann" shortly after internment was introduced "and soon made a name for himself for his fearlessness in action against the enemy forces". He was arrested in December 1971 and interned but escaped along "with six comrades, including fellow Ballymurphy man Tommy 'Todler' Tolan". He then lived a life on the run but was "constantly engaging in actions against the British".

6.132 In Richard O'Rawe's book, he suggested that Jim Bryson, whom he said he knew well, had taken command of the Ballymurphy IRA after having escaped from the Maidstone prison ship. Bryson was the type of man "who had an inbuilt distrust of men who had never stood in the gap of danger or fired a shot for Ireland"; and he was not himself found wanting in that respect, "usually at the forefront of operations". He ran "a very successful IRA company, whose kill-rate in Belfast was second to none". In Ballymurphy, the King's Own Regiment, described by Mr O'Rawe as a "novice regiment", was "having a difficult time at the hands of Bryson's men". Mr O'Rawe attributes "the first volley of shots" from the IRA side when the ceasefire broke to Jim Bryson and Tommy Tolan in Lenadoon, "signalling a restart to the war".

6.133 In Eyewitness One's account in the Springhill Massacre booklet, he refers to Jim Bryson coming onto the scene (at the time Y would not let Eyewitness One's friend fire the SMG he had re-loaded) and telling all the 'Sticks' to go. He later said that, on the Monday or Tuesday following the shootings in Springhill, Jim Bryson had a Lewis gun which he used to spray all of the wood yards in Corry's from the roofs of the houses closest to Corry's wall. Tony McCabe also gave evidence that Bryson had been identified to him as someone shooting at the army in Corry's Yard on 10 July 1972. He is described as a volunteer who died having been shot by the army in Ballymurphy in August 1973. Jim Bryson is also mentioned in Richard O'Rawe's HET interview notes as being the operational commander of PIRA for West Belfast at the time, giving directions and issuing arms and ammunition on a daily basis. SM189 gave evidence of an incident, which he thought was during the IRA ceasefire, where soldiers had spoken to Jim Bryson and he was bragging that he had shot Kgm Hanley and was threatening to shoot another soldier (whom SM189 had identified as the platoon commander).

6.134 *Tommy Tolan (intelligence and other information)*: Intelligence from January 1972 suggested that Tommy Tolan had joined the IRA in August 1971. A gist of intelligence was provided that, In 1971, Thomas Tolan was involved in a failed bomb attack on JP Corry's Timber Yard. In Eyewitness One's account in the 1992 version of the Springhill Massacre booklet, Tommy Tolan is mentioned as being with Mick Clarke who, between them, had a rifle and a sten gun in Springhill on the evening of 9 July 1972. He is described in that account as an IRA Volunteer from Ballymurphy who was "ambushed and murdered in cold blood by Sticky gunmen" in 1977. There is intelligence support for the Eyewitness One assertion that Mr Tolan (also earlier

referred to in the inquest as 'SC17') was a PIRA volunteer. There is other intelligence reporting that Tolan was active with Jim Bryson in Lenadoon on 9 July 1972, although no intelligence relating to him or Jim Bryson being in Springhill or Westrock on that date. The intelligence about the shooting in Lenadoon to some extent corroborates Eyewitness One saying that "more and more people were coming back into Springhill/Whiterock with more weapons", including Tolan, if Eyewitness One is correct that Tommy Tolan was there on the night of 9 July 1972. Tolan is named in intelligence in July 1972 as a "crackshot" and responsible for shooting two soldiers. He is publicly identified as a volunteer in a number of other ways already discussed above, including the *Belfast Graves* 1971 photograph of volunteers (see para 6.51 above), the Ballymurphy monument to volunteers (see para 6.61 above), the Springfield Road mural with the roll of honour for the IRA's B Company (see para 6.63 above).

6.135 *Michael Clarke (other information):* As indicated above, Michael Clarke is also mentioned as being armed in Springhill on the relevant night, along with Tommy Tolan, in Eyewitness One's account in the 1992 version of the Springhill Massacre booklet. He is described as an IRA Volunteer who was killed in August 1972 along with Cumann na mBan Volunteer Anne Parker when a bomb they were transporting accidentally exploded. Both his and Anne Parker's names appear on the monument erected in Ballymurphy to volunteers from the area who gave their lives in the fight for Irish freedom, along with John Dougal.

6.136 *Harry Flynn (other information):* Gerard Kelly gave evidence that Harry Flynn was at 'X4' when he was there with his brother and David McCafferty. He said that they helped him push a van across the road. Mr Kelly said he was told that Harry Flynn lost two fingers when they were shot off in the gun battle the following night. That is supported by army radio logs and, indeed, the evidence of SM10 (see para 4.299 in Chapter 4). This suggests that Mr Flynn, who was present, was the next day either armed or in the company of others who were. Similar information about 10 July is contained in the relevant RUC Duty Officers' Report. It describes heavy and prolonged firing from various locations including the Springhill flats, Corpus Christi Church and Corrigan Park on Monday 10 July. Between 12.13 pm and 1.23 pm it was estimated that 280 rounds had been fired at the army in Corry's Yard that day and that they had returned approximately 90 shots. At 1.10 pm the army had claimed to have shot a gunman in Corrigan Park and, a short time later, Henry Flynn (18 years) was admitted to the RVH with a gunshot wound in his left hand.

6.137 *Paddy Teer (intelligence and other information):* John Dougal's sister, Mary Judge, gave evidence that she remembered him being at their home with his friend Paddy Teer on the afternoon of 9 July 1972. The entry in relation to Mr Teer in *Belfast Graves* indicates that he joined the Fianna in early 1972. He was arrested and interned on the prison ship Maidstone, although released after five weeks. The publication notes that he joined the IRA, after which he was active for quite a while before he was captured and interned again in Easter 1974. There was intelligence reporting to suggest that, in February 1974, Patrick Teer was the QM (quartermaster)

of F Company, 2nd Battalion, PIRA. (This report also suggests that Gerard Heath was the “ex QM”.) A further report from March 1974 suggested that Patrick Teer was an officer of that company. His name is, again, listed on a variety of memorials and murals discussed above. Brian Petticrew, who accepted membership of the Fianna, said that Paddy Teer was a good friend of his who was later interned and appears on an IRA Roll of Honour. (He relied on his privilege when asked if Mr Teer was in his sluagh.)

6.138 *Liam Stone (intelligence and other material)*: As indicated previously, there is a strong likelihood that Eyewitness One was Liam Stone. His criminal record was available and shared and has been discussed above. There was no intelligence support for Eyewitness One’s assertion that he was in the Fianna in July 1972, assuming that he was Liam Stone. He was, however, named in intelligence as an officer in B Company, 2nd Battalion, PIRA in March 1974, post-dating the events under consideration in this inquest. (His name was previously redacted pursuant to Article 2 and/or 8 but is being rolled back at this point in view of my commitment to keeping such matters under review). As noted above, he did not ultimately give evidence in the proceedings.

6.139 *Jim Logue (intelligence and other material)*: Ciarán de Baróid’s book describes that most of the IRA volunteers in the area had to get back from Lenadoon, such that it took a while for them to get organized. The unidentified IRA volunteer quoted described being with Jim Logue “up by the riverbed” who was using “a carbine” in the area. In Mr Vannan’s report of 19 February 2024 (at page 8 of 88) he described a stream channel in the area shown in OS mapping which suggested that, by 1972, water did not flow permanently along it. In her evidence, Johanna McCullough, described crossing a small river on her journey between Divismore Park and Springhill Avenue, which Mr Vannan considered corresponded with the location of the stream channel. It was only late in the inquest proceedings that it was confirmed in oral evidence that Mr Logue was deceased (although this had also been indicated in Francis Lewsley’s statement of January 2023). This was confirmed in evidence from Ann Vallely (formerly Maguire), who assisted with gathering accounts for Mr de Baróid’s book. She did not know the identity of the IRA Volunteer with Jim Logue on 9 July. Brian Petticrew confirmed that he knew Jim Logue and that he lived in Westrock Gardens but stated that Jim Logue was not in the IRA.

6.140 Mr Logue lived at 29 Westrock Gardens and was one of the potential IRA witnesses arising from the PSNI sensitive disclosure. There is intelligence material which may corroborate the assertion in the book. (The intelligence was disclosed but the name was redacted on Article 2 and/or 8 grounds and is again being rolled back pursuant to my keeping these matters under review. Mr Logue was not known to be deceased at the time the redactions were applied.) Considering the intelligence discussed above regarding the use of a carbine to fire at Corry’s (probably on 9 July 1972: see para 6.95), the information in Mr de Baróid’s book about an M1 carbine being used by Logue from the riverbed, and Soldier G’s statement indicating that he saw a gunman with an M1 carbine in Corrigan Park, the intelligence suggesting that

Mr Logue may have been a sniper appears relevant and potentially corroborative. There was intelligence material from August 1972 suggesting that Mr Logue was a member of the PIRA; but also from September 1972 suggesting that he used to be a section leader but was either dismissed from the IRA or relegated to a volunteer. There was also intelligence reporting from September 1972 indicating that there was a resident sniper in Ballymurphy who was possibly Mr Logue (or possibly John Petticrew) who was active on Sundays; that a look out team (that which included Paddy McManus and John Fusco) would normally 'work to' Jim Logue; and that Mr Logue gave gun lessons to the Fianna.

6.141 *Martin Maguire:* The MoD also relied upon the potential presence of Martin Maguire. In its submission, the IRA activity of some of the members of the Maguire family was well-known. Two sisters of Mr Maguire were members of Cumann na mBan and were shot 'on active service' in 1971; and Ned Maguire Junior was convicted of the assassination in 1974 of Resident Magistrate Martin McBirney QC. It was accepted by Martin Maguire's sister-in-law that he had been firing at Corry's Yard on 10 July. His wife could not account for his whereabouts on the evening of 9 July. I note, however, that his sister-in-law (Ann Maguire/Vallely) said that he was at St Peter's School that evening (see para 6.24 above).

6.142 *Other relevant intelligence reporting:* There was a range of additional intelligence material which was provided to PIPs and/or gisted which either related to relevant individuals but, in the event, was non-deployable; or did not relate to any individual in particular. A summary of some relevant points suggested by this intelligence reporting which were included in gists provided further to the PII hearing, focusing on reporting *before* the events of 9 July, is as follows:

- (a) There was intelligence reporting that identified individuals were using an assortment of long and short arms in the Springhill area in March 1972; and that, in February/March 1972, identified PIRA members were throwing IEDs at Corry's Yard.
- (b) In early 1972, it was reported that the PIRA had a number of safe houses in the Ballymurphy/Springhill area and it was believed that an assortment of firearms and ammunition was stored in these safe houses. At that time it was believed that weapons were buried in the Whiterock area.
- (c) In March/April 1972, it was reported that the PIRA had access to a number of firearms and explosives hidden in addresses in the Springhill and Ballymurphy area.
- (d) In April/May 1972 the PIRA was known to have access to two prestige long arms in the Ballymurphy area.
- (e) At the time of the shooting from Corry's Yard in July 1972, a known PIRA member had access to a machine gun.

- (f) In early July 1972, prior to the incident which is the subject of this inquest, a significant amount of rifles and ammunition were transported into the New Barnsley area by the PIRA. These rifles included armalites and other heavy calibre weapons. A blue Austin 1100 was believed to have been used to facilitate this weapons movement.
- (g) In early July 1972, again prior to the index incident, the PIRA in the general West Belfast area had access to a number of assorted weapons including Garand rifles, M1 Carbines, rocket launchers and a number of handguns, together with a large quantity of ammunition.
- (h) The same report suggesting that Richard O’Rawe moved weapons in the New Barnsley area, typed on 10 July 1972, also suggested that the PIRA ceasefire would “end this weekend”, suggesting that this was pre-planned. (A handwritten note beside this entry said, “I wish we had been given this on Friday or [illegible] Sat morning.”)
- (i) There is a report typed on 13 September 1972 indicating that a house almost opposite the CESA Club at the Whiterock Bungalows was often used as an arms dump. This obviously suggests that there may be an arms dump in close proximity to the ex-servicemen’s club which has featured in evidence. With the article 2/8 redactions applied to names not searched pursuant to Ruling No 1 or Ruling No 3, this could have been interpreted to refer to the McGuinnesses’ bungalow. However, under the first article 2/8 redaction, which (in the exercise of keeping these matters under review) I consider should be rolled back, it is disclosed that this intelligence report relates to “Clarke’s house”. (The plaque beside the large painted mural of John Dougal armed, which identifies him as an Oglach, also commemorates three female Republican activists including Kathleen Clarke.)

6.143 I should also mention that in the course of the inquest I directed that criminal record checks would be carried out in respect of all civilian eyewitnesses and military witnesses (see paras [75]-[79] of Ruling No 1 and para [14] of Ruling No 3). I sketched out a preliminary approach to the issues of relevance and deployability in relation to the content of criminal records in para [78] of Ruling No 1. A number of criminal records were obtained but, applying the principles outlined in relation to deployability, few were disclosed because I did not consider that the content of the records – which mostly post-dated the events of 9 July 1972 – were capable of shedding any particular light on the events of that evening. The only criminal record which was disclosed on the part of a civilian was that of Liam Stone.

6.144 In broad terms, I have considered all the evidence available to the inquest which has the capacity to inform me about the extent of paramilitary activity in Springhill around the time of the deaths. In doing so, I have considered the potentially relevant material which speaks to membership of a proscribed

organisation. I set out my reason for examining this evidence at para [65] of Ruling No 1 in the following terms:

“In considering this issue, I have sought to focus on the fact in issue to which the putative further disclosure may be (potentially) relevant. This must be the contention that civilians were armed and firing at the military personnel in Corry’s Yard. That is the key issue to which the further searches should be directed. However, whether an individual was or was not a member of a proscribed organisation is, in my view, likely to speak to the probability of their having access to a weapon and/or firing it at military personnel. I say this for three reasons. Firstly, membership of a proscribed organisation is at least suggestive of a willingness to act illegally in pursuit of a political viewpoint. Secondly, such organisations are likely to have had more ready access to weaponry than other civilians and to have deployed them (if at all) for use by their members. Thirdly, in the particular circumstances of this inquest, the events in question appear to have followed an express instruction from the headquarters of the Provisional IRA to “resume offensive action”. Accordingly, the searches should also be directed towards information suggesting membership or participation in the activities of a proscribed organisation at a time relevant to the inquest proceedings.”

The nature of the Fianna

6.145 Before leaving this topic, it is appropriate to make some comments about the nature of the Fianna. John Dougal and David McCafferty were both accepted as being members of the Fianna (in its PIRA and OIRA guises respectively). Brian Petticrew also accepted membership. In her witness statement, Anne Begley (David McCafferty’s sister) said that being in the Fianna was “like being in the boy scouts” in the area in which they grew up; although she added that, due to the Troubles, it had “become a rough neighbourhood, like growing up in the wild west”. She said most young boys in the area got drawn into these organisations as to the (mis)treatment of local people by the British Army. When being questioned by MoD counsel as to whether, if there was civilian shooting, this would have been by the IRA James Dougal said that he assumed so; and when it was suggested that it may also have been the Junior IRA (i.e. the Fianna) he said “maybe”, he did not know. Generally, he denied knowing about the activities of the Fianna.

6.146 MoD counsel relied upon a number of open source materials to suggest that the Fianna was much more sinister than the activities of the boy scouts. For example, an entry in *Lost Lives* in relation to Michael Sloan – who went to the same

school in West Belfast as David McCafferty, for instance – notes that he died in January 1972 “as a result of an accidental shooting during an arms training lecture”. There was considerable force in the submission on the part of John Dougal’s next of kin that nothing really of any significance could be taken from the death of Sean Doyle, a member of Fianna Eireann, in 1944. On the contrary, however, I considered that the MoD was entitled to rely on information in relation to the deaths of Michael Sloan and Michael Magee, whose deaths were much more recent (January and May 1972 respectively) and who were from the same area as the Fianna of relevance to this inquest.

6.147 The intelligence material disclosed suggested that a member of the Sean Doyle Sluagh were “drilled at houses”, with other intelligence suggesting that the sluagh was drilled at the Whiterock bungalows. The intelligence further suggested that Fianna uniforms and berets were kept, and lectures held, at a home at the Springhill shops. The intelligence suggested that there was an arms dump with some revolvers at Corrigan Park behind the stand; another dump in a house near the Springhill shops; and another in a derelict house in Springhill Avenue, near Westrock Drive and where the river used to be. Elements of this intelligence are corroborated by open source material, some of which is discussed below. There was also some intelligence support for the description by Eyewitness One of the support function provided by the Fianna to PIRA (acting as “runners”). Reporting on the activities of B Company of the 2nd Battalion of the PIRA in July 1972 noted that the Fianna were being used as look-outs, with a gunman usually “covered by a team of 4-6 boys” with a volunteer in charge.

6.148 The submissions on the part of John Dougal’s next of kin urged me to place significant reliance on the evidence of Brian Petticrew – and, in particular, his denial that the Fianna would have access to weapons – in considering the role of the organisation and significance of membership of it in this case. That was an unrealistic submission in my view. Mr Petticrew exercised his privilege against self-incrimination in respect of a range of questions about the activities of the Fianna. He chose to answer questions selectively, usually to deny anything which might paint the organisation generally, or his membership of it, in a sinister light. At one point, he denied that membership of the Fianna involved associating with members of the PIRA, which wholly lacked credibility in my view; and was also inconsistent with the acceptance that members of the Fianna ‘graduated into’ the IRA. I considered his evidence in this regard to be conflicting and self-serving. Like others – for instance, Richard O’Rawe – Mr Petticrew adopted a strategy of confession and avoidance in his evidence. I do not believe that he was giving a full, frank or honest description of the activities of the Fianna and am not prepared to proceed on the basis that his denials of any Fianna involvement with weapons was either true or reliable. As I emphasise in Chapter 9, I wholly accept that mere membership of the Fianna is not enough to reliably determine the actions of those who are relevant in this inquest. The starting point, though, is a realistic acceptance of the nature of at least some of the organisation’s activities. This is not gleaned only, nor indeed primarily, through intelligence materials.

6.149 In his book *Painting My Community*, Gerard Kelly, one of the eyewitnesses in this inquest who lived in the area, described the Fianna. He noted that it was the junior wing of the IRA with many members “out rioting and organizing every day”. He described it as subordinate to the IRA, like army cadets. However, he also noted that members “would go to IRA camps to get trained in military warfare”, as well as being educated about past Irish struggles. Mainly, he said, the Fianna were “an asset to the army”, gathering information, acting as lookouts, moving “military ordnance about” and helping to “keep order in the community”. His book said that members “wanted to fight the British” and “wanted to be more militant and join the IRA”. Girls would join Cumann Na gCailíní until they were 17 or 18 years old when they joined Cumann Na mBan. In the course of his evidence he indicated that he knew Michael Magee (who had died as a result of being shot in a weapons training exercise on behalf of Na Fianna).

6.150 The *Belfast Graves* and *Lost Lives* publications refer to the death by accidental shooting of David McAuley who, having joined ‘the Republican Movement’ at age 12, died aged 14 as OC of 3 Battalion, Belfast Brigade of the IRA. A number of the witnesses in the inquest accepted in questioning that they knew, or knew of, Michael Sloan and/or Michael Magee, both 15-year-old boys, who were each accidentally shot dead in January and May 1972 respectively. The former, a member of the Fianna, is said to have died during an arms training lecture at a house in New Barnsley, with a variety of weaponry and gloves found at the scene. Death notices indicated that he was a staff officer in the Fianna’s 2nd Battalion. (Michael Sloan’s name is also mentioned on the memorial of volunteers from the greater Ballymurphy area who gave their lives in the fight for Irish freedom, aged 16, who died on 11 January 1972.) The latter, another member of the Fianna, is also said to have been shot and killed accidentally in New Barnsley Crescent. (Again, his name appears on the same memorial as a volunteer who died, aged 15, on 13 May 1972.)

6.151 The MoD relied upon a number of open source articles in relation to the IRA’s enlistment and exploitation of children. One, by Shane Paul O’Doherty, suggested that most particularly in the Belfast Brigade of the IRA a decision was taken early on to enlist children into IRA activities as child soldiers, most especially (although not exclusively) in D Company activities in the Ballymurphy area. This article purposed to quote “legendary IRA Belfast Brigade commander Brendan ‘Darkie’ Hughes” as saying that the Fianna were from 12 to 16 years old, but they had to be over fifteen to be trained in weapons. A former IRA volunteer and Fianna member stated that the junior wing would have supported older volunteers in the IRA by way of acting as look outs and transporting their weapons to safety. The article cites members of the Fianna and Cumann na gCailíní as young as 12 or 13 years old who are memorialized as having been killed in action.

6.152 An entry in the Battalion Log on 11 July 1972 (serial entry 12 at 14.25) refers to a broadcast on IRA radio asking all CESA to report and also indicating that the “IRA has called up the Fianna”, again supporting the suggestion that the Fianna was used

to support offensive operations. The evidence of some of the military witnesses discussed in Chapter 4, particularly in relation to the May 1972 incident at Corry's, supported the suggestion that children were cynically used by the IRA in order to deter return fire from the army.

6.153 A constant – and understandable – refrain in the inquest related to the army having shot children. In light of my findings later in this ruling, that complaint is justified. However, it was frequently deployed without any or adequate context. The wider information available to me in this inquest, including in particular entries in radio logs and open source material which has been relied upon by the MoD, clearly indicate that unlawful organisations, in particular the IRA, were quite prepared to enlist the assistance of young children in furthering terrorist operations, including by means of the possession or transportation of weaponry and/or ammunition. For instance, there is a record of a 13 year-old girl being detained in the Twinbrook Estate, Dunmurry, on the evening of 10 July 1972 in possession of a .303 rifle and 20 rounds of ammunition.

6.154 Eyewitness One's account in the Springhill Massacre booklet openly talks about Fianna members being hardliners. Its contents provide significant support for the suggestion that Fianna in the area were familiar with weapons. Eyewitness One describes his "mate" (also 15 years old, it would appear) assisting a 'Stick' by filling the magazine of a sub-machine gun and cocking it. He further describes himself and Z moving ammunition for two IRA members and acting as 'runners' for them. The submissions of John Dougal's next of kin essentially ignore the content of the Springhill Massacre booklet on this topic, notwithstanding that it was published by and on behalf of members of the local community and with the involvement and support of John Dougal's mother.

6.155 I was also struck by the obvious concern experienced by Mrs Dougal, John Dougal's mother, about the role of the Fianna. Her account in the Springhill Massacre booklet refers to her seeking reassurance from Jim Bryson about the activities in which her son may have been, or may become, involved. In light of what other evidence in the inquest suggested about Mr Bryson, it was a grim position for any parent to be in to be seeking reassurance about their son's safety from that source.

6.156 The overall picture I gleaned from the evidence was that the training provided in the Fianna was designed to lead to 'graduation' into the IRA proper and that there was no fixed age for this. There also appears to have been some overlap in the organisations, with IRA volunteers also holding leadership positions in the Fianna. No doubt as Fianna members grew in experience and confidence, they were given greater roles in IRA operations which they supported. In short, I was not persuaded that membership of the Fianna was innocent or innocuous. Leaving aside the fact that membership constituted a criminal offence, the evidential picture overall clearly suggested that there was a sinister and violent dimension to Fianna activities. In light of that, some of the time spent exploring or debating whether a

particular individual was (only) a senior member of the Fianna or a (junior) member of the IRA was perhaps addressing an issue which did not bear as much practical importance as some PIPs assumed.

Civilian exercise of privilege against self-incrimination

6.157 Finally, a considerable number of civilian witnesses exercised their privilege against self-incrimination and declined to answer questions which would have been relevant to their knowledge of those in the area who were or may have been involved in unlawful associations at that time and, indeed, who may have been involved in offensive action against the army at Corry's Yard on the evening or night of 9 July 1972.

6.158 By way of example:

- (a) Having accepted in his second statement that he was a member of the Fianna (the Sean Doyle Sluagh, part of F Company which covered Whiterock and Springhill), Brian Petticrew relied upon his privilege to decline to answer a wide range of further questions relating to this. He did so, for instance, when asked if Paddy Teer was in his sluagh; when asked about how often they would meet and what would happen at meetings; when asked who was in command of his sluagh and to provide positions or names of others involved; and when asked certain questions about his brother's involvement.
- (b) Catherine Donnelly exercised her privilege when asked about her knowledge of fellows who were active in unlawful organisations at that time, including in the IRA, or persons whom she later learned were so involved. These questions arose in the context of her contribution to the Springhill Massacre Pamphlet which mentioned both fellows being "active" that night and a gun having been lost by civilians.
- (c) Anne Begley exercised her privilege when asked about her knowledge of her brother David McCafferty's membership of the Fianna.
- (d) Mary Moore (Smyth) exercised her privilege when asked about people in Westrock whom she knew to be in the IRA, Cumann na mBan or the Fianna. She recognised that by giving such names it may be possible that this would help me in my inquiry; but she was nonetheless not prepared to provide them. Later, however, she said that she never heard the names of anyone firing at that time. She was happy to answer that question and did so in the negative.
- (e) John Fusco exercised his privilege and declined to answer when intelligence material was put to him which suggested that, in September 1972, he may have been a member of the Michael Kane Sluagh. However, he also denied

having any involvement with an unlawful organisation at the time of the events.

- (f) Gerard Kelly relied upon the privilege when asked questions about his mother and father's membership of the IRA, despite this having been addressed in his own published book. He chose to answer other questions in respect of which he was given a rule 9 warning, denying that he or his brother were involved in unlawful associations. However, he relied on his privilege in relation to his knowledge of Gerard Heath's involvement in any unlawful associations; in relation to the activities of the Fianna; and in relation to his knowledge of any involvement on the part of Martin Dudley and Martin Mulligan.
- (g) Robert Russell relied upon his privilege when asked about his knowledge of gunmen operating in the area (declining to adopt an element of his written statement in this regard); when asked whether his wearing of gloves was connected with his use of a gun that evening; when asked if he was familiar with the Sean Doyle Sluagh; when asked about intelligence material suggesting that he was a member of it (or, later, the Michael Kane Sluagh); and when asked about whether the content of the intelligence information explained why he had been working in the ex-servicemen's club. He further relied upon his privilege when asked when he found out that Bobby McCrudden was in the IRA and when asked about IRA volunteers in the Westrock area (in light of his account in the Springhill Massacre booklet that not many remained there that day because of the gun battle in Lenadoon). He again declined to answer when asked about Fianna training. He relied extensively on his privilege when asked about the activities of the IRA or Fianna, about knowledge of arms dumps, about the content of intelligence materials relating to him, and about his knowledge of gunmen firing at soldiers (notwithstanding mentioning this in his account in the booklet).
- (h) Thomas Ramsey exercised his privilege when asked if he knew anything about the IRA firing from Corrigan Park (arising out of a note to that effect from his HET interview).
- (i) Ann Maguire (Vallely) relied on her privilege when asked about a number of members in her family who may be in the IRA, who else she knew to be in the IRA, and (in particular) her knowledge of whether her close neighbours John and Brian Petticrew were in the IRA.
- (j) Gerard Heath exercised his privilege in relation to whether he was ever a member of the Republican movement (i.e. the Fianna or the IRA); as to his awareness of whether John Petticrew, Brian Petticrew, Martin Dudley and Bobby McCrudden were in the IRA; his knowledge of gun lectures at the Ballymurphy Community Centre or Joe McElkerney's involvement in any such lectures; and intelligence suggesting that he had later been in the IRA.

- (k) Richard Clarke relied on his privilege and declined to answer questions in relation to who he knew who lived around him who, in 1972 or since, were members of unlawful associations.
- (l) Martin Petticrew relied on his privilege when asked about his knowledge of whether his brothers John and Brian were involved in a paramilitary organisation. He also relied on his privilege, having given evidence about armed civilians in Corrigan Park early the next day (during the evacuation process for women and children), when asked if he had seen anyone with guns in Westrock Drive on the evening of 9 July 1972 and when asked about the number of men he saw and the type of weapons they had.
- (m) Johanna McCullough invoked her privilege when asked by MoD counsel whether she knew, at the time or since, anyone in and around the area who may have been in an unlawful organisation on 9 July 1972.
- (n) When asked if she was a member of the female side of the IRA on 9 July 1972, Marie Gavaghan relied on her privilege and declined to answer. She also did so when asked whether any other member of the Maguire family (other than her sister's brother-in-law) would have been firing, noting only that they were a well-known Republican family.
- (o) Martin (Gil) McShane relied on his privilege when asked whether he knew John Dougal (a good friend of his), or any of the other individuals shot that night, to be in an unlawful organisation such as the IRA or Fianna. He also did so when asked whether, at the time of these events or subsequently, he knew of anyone living around him in Westrock who was a member of an unlawful association.
- (p) Theresa McGuinness relied on her privilege when asked whether she knew of the Petticrews' involvement in unlawful organisations, whether she would have told the inquest of any gunmen if she had seen them, and whether she saw any civilian shooting the next day.
- (r) Richard O'Rawe, who was an admitted section leader within B Company, 2nd Battalion of the PIRA at the time, relied upon his privilege when asked whether he heard what had happened at Springhill on 9 July 1972 from any sources within the IRA (although also maintaining that nothing was discussed with him and that he knew nothing of it). He further relied on his privilege when asked about what he was recorded by HET officers as having said about his own role in the IRA at that time; about Tommy Ramsey being a section leader in the IRA; about whether he was trained on guns; about whether he was known as a gunman within the IRA; about intelligence suggesting that he had moved weapons and ammunition to a house in New Barnsley (although also stating that he did not recognize this); about intelligence suggesting that

he was the intelligence officer of B Company in February 1972; and about who would have placed a death notice in the press on behalf of B Company.

7. EARLIER INVESTIGATIONS

7.01 A feature of the evidence in this case was that civilian witnesses relatively frequently wished to correct statements taken, or attributed to them, during the course of earlier processes, either the original inquest, the St Aidan's Inquiry and statements taken by a solicitors' firm for that purpose, or HET interview notes or file records. It was not uncommon for witnesses to say that they did not now recall matters which had been included in those earlier statements; for them to give evidence which was inconsistent with those statements; or for them to flatly contradict the content of earlier statements on the basis that they believed them to be wrong or believed them to include information which they did not, or could not, have provided.

7.02 Understandably, counsel wished to ask witnesses questions about earlier accounts they had given and to explore, where relevant, inconsistencies between the accounts. Unfortunately, this sometimes led to further confusion or lack of clarity in terms of precisely what the witness's evidence was. Most witnesses, when asked, were inclined to accept that their memory of events would have been better closer in time to 1972, that is to say that (in general) their earlier accounts may have been more reliable. However, several of the earlier processes did not display the rigour or forensic analysis that would have been required to render their work product worthy of confident reliance.

7.03 In this chapter, I address a number of earlier processes, of varying types, which sought to inquire into the events giving rise to the deaths which are at issue in this inquest. As appears below, the initial police investigation, such as it was, was severely hampered by circumstances. The RMP investigation, such as it was, also failed to deliver a robust, independent investigation of the whole matter. I discuss the evidence given by the RMP witnesses in the inquest below. The original inquest into the deaths, held in July 1973, did at least have written and sworn oral evidence which was considered by an independent judicial officeholder. However, due to the limitations of coronial procedure at that time, this was only a cursory examination of the matter by modern standards. The direction by the Attorney General for Northern Ireland of a further inquest into these deaths was an obvious recognition that that inquest was not adequate in the circumstances and that a further inquest (these proceedings) was advisable.

7.04 In frustration at the absence of an effective inquest or public inquiry, the community itself organised an event (held as part of the West Belfast Festival) which was styled a community inquiry or 'People's Inquiry'. Some transcripts of contributions from that were available. This was an informal event in nature and, in my judgement, was clearly partial and lacking in forensic rigour, with contributions coming from the floor and being discursive in nature. Nonetheless, given the informal nature of the event, it may be the case that some contributors spoke more candidly than they might in other contexts. It was more in the nature of a campaign

event, however, seeking to raise the profile of the deaths and advance the argument for a properly resourced State inquiry, rather than an effective fact-finding tribunal.

7.05 Further evidence was gathered in the form of instructions to solicitors. Some of these appear to have been obtained in preparation of the St Aidan's event. Others were gathered in the course of seeking to advance the next of kin's calls for a new inquest or inquiry and possibly with a view to taking judicial review proceedings to that end. A range of these were made available to the inquest. They are mostly referred to as KRW Law statements, although it might well be that many of them were taken by solicitors who were at that time practising in Madden & Finucane, Solicitors who later moved to KRW Law. That firm was then involved in the 2000s and 2010s in assisting the families of the deceased, during which period some further statements were recorded.

7.06 None of the earlier processes or investigations have really resolved, or been capable of resolving, the key questions relating to the competing narratives of events on the night of 9 July 1972. As I address further in Chapter 12, this inquest has provided the best opportunity to do so but has, regrettably, been significantly hampered by the huge passage of time between the events in question and the proceedings.

The original police investigation

7.07 The initial police investigation, even by the standards of that time, was not robust and effective. From the evidence and documentation available, it seems that no firearms or fired ammunition, such as bullet casings, bullets or fragments of bullets were recovered following the deaths of the deceased. As Ms Kiernan highlighted in her evidence (discussed more generally in Chapter 8), this is in total contrast to a current day shooting event where the scene is meticulously examined and any weapons thought to be relevant seized as soon as possible. In addition, a scene such as the relevant locations here where deceased fell would typically be examined for bullet impact damage and the positions of the injured or deceased would be clearly noted and recorded. These steps assist with a range of investigative opportunities and would permit, for instance, ballistic examination and plotting of approximate shooting locations and trajectories. Unfortunately, none of that was possible.

7.08 Aside from forensic opportunities, many of the witnesses in this inquest who were eyewitnesses to key events were not interviewed by the police at the time, save for the relatively small number who provided depositions in the original inquest proceedings. Many of the eyewitnesses were children; but it would still have been possible for them to be interviewed in order that relevant evidence could be gathered. Reasons as to why this did not prove possible are suggested below.

7.09 In his depositions to the original inquest in July 1973, DS McBurney noted that he had carried out investigations into the deaths but these tended to indicate

simply that, to date, it had not been established exactly whether the deceased individual died as a result of military or terrorist gunfire. In the depositions there was generally reference to a gun battle taking place in the area at the time and/or to heavy gunfire between the military and terrorists.

7.10 The earlier police reports to the coroner concerning the deaths contained a little more detail (although, obviously, at an earlier stage of the investigation). For instance:

- (i) The report in relation to John Dougal's death, dated 18 July 1972, noted the time of death between 9.30 and 10.00 pm on 9 July. The circumstances were noted as follows: "Deceased was in Westrock area when serious shooting took place. He was one of five persons fatally shot in the same incident. He was leaving the home of Brian Pettigrew, Westrock Drive when he was shot".
- (ii) The report in relation to Fr Fitzpatrick's death, dated 18 July 1972, noted the time of death at 9.45 pm on 9 July. The circumstances are noted as follows: "Deceased was in Westrock area on the evening of 9th July, when a gun battle took place. Deceased was in the area assisting injured and wounded."
- (iii) The report in relation to Patrick Butler's death, dated 17 July 1972, noted: "While accompanying Father Fitzpatrick to attend wounded persons in Westrock Drive he was shot in the head from the direction of Corry's yard".
- (iv) The report in relation to David McCafferty's death, dated July 1972 (without a precise date being identified), noted the time of death as 9.30 pm on 9 July 1972. The circumstances were noted as follows: "Deceased was in Westrock Drive on evening of 9th July when a gun battle took place and six people including subject were fatally shot."
- (v) The report in relation to Margaret Gargan's death, dated 17 July 1972, noted the time of death at both 9.00 pm and 8.10 pm on 9 July 1972. The circumstances were noted as follows: "Was sent home from Whiterock/Westrock Community Centre by her father and was shot on way home at Westrock Gds."

7.11 It is difficult to read the handwritten notes of the coroner on DS McBurney's deposition in the inquest in relation to Fr Fitzpatrick (which also referred to the other four deaths). However, it is clear that DS McBurney said that he was not able to carry out a normal police investigation as it was regarded as an unsafe area. He referred to a series of terrorist activities in that area.

7.12 A report from DS McBurney of 11 June 1973, forwarding the inquest files to the Detective Chief Inspector of 'B' Division, summarised the starkly conflicting views on the incident between the military on the one hand and the community on the other. He then said that:

“Because of the controversy I found it impossible to obtain statements from civilians in the area and in this respect I made numerous requests to local dignitaries. I supplied them with maps of the area so that they could mark the areas where the different deaths occurred but my attempts to obtain statements and further evidence proved futile. I have no doubt that the clergy were involved in taking witness statements in the area but I feel that they will not be forwarded until the day of the Inquest, if at all.

Eventually I had to contact Solicitors acting for the respective families in an attempt to obtain sufficient evidence for a coroner’s court.”

7.13 DS McBurney went on to say that he had made these latter requests in December 1972 and received responses between 3 February 1973 and 7 June 1973. He did comment later in the memo that it could be “understood why local inhabitants were so reluctant to assist in any investigations”, adding, “To say the least these deaths were an unfortunate set of circumstances”. He said it was impossible to determine if the deceased were involved in the shooting or not; although there was no evidence, forensic or otherwise, to suggest that they were. I return to the issue of the adequacy of the investigation at the time in Chapter 12.

The RMP investigation

7.14 As soldiers fired fatal shots, there was an RMP investigation into the events at Springhill. This was given the RMP reference 08554/2, with the description ‘Shooting Incident’ or, elsewhere, ‘Shooting Incident, 9-10 Jul 72’.

7.15 This incident is recorded in the RMP duty list in the following terms. The ‘IS’ number is given as 3130; SM344 is identified as the investigator; the ‘offence’ is listed as “Shooting incident”; the date on which it occurred as 9/10 July 1972; and the CCRIO number is 08554/2. The details of the incident (which always appeared to be short and confined to a small box) are given as follows: “44 rds ret. 8 poss hits. 1 Kings (Corry’s woodyard). 5 civs in morgue.” This appears to reflect a report that 44 rounds had been returned by the army with eight possible ‘hits’ by 1 Kings Regiment at Corry’s Wood Yard; and that there were five civilian bodies in the morgue. The entry is not in chronological order (i.e. it follows two entries relating to occurrences on 11 July 1972), so this entry obviously does not reflect the very first information recorded by the RMP in relation to the matter, which is probably set out in the RMP radio logs (discussed in Chapter 4). Indeed, other entries also appear out of chronological order so it appears that this document was simply used to record the allocation of IS numbers and CCRIO numbers when these were assigned. This did appear to me to be somewhat curious and that it is clear that the RMP was informed of the incident on the morning of 10 July 1972. In his evidence, however,

SM346 felt there was nothing unusual about the duty list not being kept in chronological order.

7.16 The RMP used crime report forms worldwide for submission to RMP CCRIO (Central Criminal Records and Intelligence Office) which, at the relevant time, was located within the headquarters of the SIB of the RMP, based in Great Scotland Yard. The brief details provided in the form are as follows:

“Exchange of Fire between 1 Kings at Corrys Woodyard, Springfield Rd and approx. 30 civilian gunmen located in Westrock and Springhill housing estate. 43 rds fired 8 poss hits. 5 civilian bodies including body of Father Fitzpatrick recovered.”

7.17 The investigator identified on the front of the RMP file was SM344. Four RMP witnesses gave evidence to the inquest, namely SM344, SM346, SM278 and SM279. The first two of these had been involved in the investigation into the Springhill incident and took a number of the ciphered statements. The third officer who was involved in the investigation and took a number of the ciphered statements, Cpl Brobson (previously referred to as SM345) is deceased. The further two witnesses do not appear to have been involved in the investigation of the shooting incident which gave rise to the deaths; but they were involved in an investigation in relation to another shooting incident in close proximity in time and location, which I have referred to in Chapter 4 as the SPD incident. (Their evidence is discussed here mainly in relation to the procedures adopted by the RMP rather than the content of their investigation of the separate incident which, as necessary, is addressed elsewhere.)

7.18 The evidence of SM344 and SM346 is summarised below before a brief discussion of some aspects of the RMP investigation. Interestingly, neither of the RMP witnesses chose to take up the offer of representation by the CSO through the MoD, notwithstanding repeated advice to them that this option was available to them at no cost to themselves. This struck me as perhaps some indication of a desire to remain, and be seen to be, independent from the general MoD position.

RMP witnesses

SM344

7.19 SM344 gave evidence on 7 and 19 March 2024. He had provided a written statement of evidence to the inquest on 30 October 2023, which he adopted. SM344 had also provided a deposition for the purpose of the original inquest in July 1973. He said that this was correct but that he had no knowledge or recollection of attending the inquest (and had attended many inquests in Northern Ireland in 1972 and 1973).

7.20 He had joined the army, in the Corps of Royal Military Police, in September 1964 and remained with them until his retirement in September 1986. He transferred to the SIB in London during 1971 and remained with that branch until his retirement. He described SIB as the equivalent to the CID in a civilian police force. In January 1972 he was posted to the Northern Ireland Headquarters of the SIB, then based at Thiepval Barracks, Lisburn. He remained in Northern Ireland for 24 months.

7.21 SM344's evidence was that, about that time, there was much organisational change taking place in the RMP. Not long after his arrival in Northern Ireland the unit designation was changed to 178 Provost Coy (Investigations) RMP, then under the command of the recently formed 1 Regiment RMP. He described the structure of the relevant company. Initially, there were four investigational sections and this then changed to six. SM344 was a non-commissioned officer (NCO) in charge of F Section. As far as he could recall, each investigational section was commanded by a Senior NCO, either a Staff Sergeant or a Sergeant. He described himself as a young Acting Sergeant rather than a senior officer.

7.22 During July 1972, unit manpower was increasing all the time, particularly in respect of the imminent Operation Motorman. SM344 could recall that some of the members of his section were Corporals SM346, Raymond Brobson (previously referred to as SM345), SM276 and SM369. Asked about Cpl Brobson, SM344 said he was a very reliable and efficient corporal who had been very much involved in other major shooting incidents, including in Londonderry. SM344 would allocate jobs to section members and manage progress; but would sometimes also take on jobs himself or help others out with enquiries. The section was mostly based in Lisburn but, when deployed to Belfast, would be based in offices at Ardmillan House (on the Antrim Road in Belfast). The RMP Ops Room was above those offices on the first floor of the building. The investigation section would liaise closely with the RMP Ops Room and also try to maintain telephone contact with HQ 178 in Lisburn; and they would receive tasking from both, although more frequently from the Ops Room. The RMP always wore civilian clothing and travelled in civilian-style cars.

7.23 SM344 said that in order to perform their duties efficiently, it was of paramount importance for the RMP to establish and maintain liaison with many people and establishments, for example army commanders (e.g. unit commanding officers, adjutants, RSMs), hospitals, DIFS, forensic and pathology services, and the RUC.

7.24 In the normal course of events, if the RMP was informed of an operational incident involving the army which required investigation, they would in the first instance contact the unit involved by telephone, normally the Adjutant. Visiting an operationally deployed unit without such first initial contact did not happen. This was especially the case if visiting an army base during darkness, which involved approaching checkpoints or armed soldiers very carefully and with lights off in recognition of their own nervousness. SM344 said they were all wary and would

simply not have arrived at an operational base without prior notification. In view of this, unless circumstances demanded otherwise, RMP visits to bases with prior permission were usually during daylight hours, particularly where it was intended to interview soldiers.

7.25 SM344 said that, in an operational situation in which soldiers had fired their weapons, irrespective of whether or not any deaths or injuries occurred, any soldier so discharging a firearm would be interviewed and a witness statement from the soldier would be recorded setting out the soldier's account. He described that the RMP's accepted procedure at the time was to later create, from an extract of a map of the incident area, an overview of the incident, showing frequency and angles of fire to augment the written statements that any subsequent enquiry. (This is the type of process which would have resulted in the production of the RMP plan in this case.)

7.26 In SM344's evidence, in an investigation where a soldier had fired their weapon, "at the very least" the identifying serial number of the weapon discharged by the soldier would have been noted. However, he also said that he had a very vague recollection that the RMP was discouraged from including details of firearms in statements from a security perspective (although he could not now recall what the particular security concern was). In a case where there existed possible forensic analysis, the weapon would be confiscated and submitted to DIFS for subsequent comparison with the material recovered from the scene.

7.27 SM344 explained that it was not an easy process to arrange to interview soldiers involved in shooting incidents. As he recalled, "there was a perception of unit protectiveness, particularly when it was thought the soldier had done no more than his duty required of him". When questioned about this statement, SM344 said this was never from the individual soldiers themselves but usually someone within a senior position in the unit. He said there were sometimes difficulties in persuading the unit that certain soldiers were required to be interviewed. In addition, it was often the case that the soldier was sleeping or still deployed, or even then involved in a live firing situation. As a result, the arrangements for interviews sometimes took a considerable time; but in an ideal situation the soldiers would be interviewed as soon as possible after the incident. This usually happened after the RMP was briefed about the incident from a "unit personality", usually the Adjutant (although it could be duty officer or someone in the Ops Room).

7.28 The initial briefing would be over the telephone but, hopefully, they would be informed of the basic details of the incident and the names and ranks of soldiers involved before interviewing them. SM344 said that he did recall that, infrequently, some units were not at all happy to agree to the RMP's presence and their interviewing soldiers. Where this could not be solved on the ground, it was referred upwards to 178 Company or even HQNI. He could not remember any occasion where the RMP was not allowed access to a soldier, although this was sometimes much later than they would have wished. He said that the RMP had to rely totally on senior officers identifying soldiers and that they had to accept that the correct

soldiers had been produced. However, he could not imagine a situation where they would suggest that the wrong soldiers were produced. He did not remember ever having any suspicions in that regard.

7.29 They also did not necessarily interview only the soldiers who had fired (although those soldiers would be interviewed in the first instance). If other soldiers had something of evidential value, then they would also be interviewed. SM344 agreed that the SIB would generally be proactive to speak to others who may have been at the scene; but said there may have been other incidents requiring their attention so that the avenues of enquiry may not have been as thorough as they would have liked them to be, given that there was so much going on at that time. In this context, he said that the SIB were clearly “rushed of our feet” with incidents all over Belfast.

7.30 The recording of statements was routinely carried out by using an army-issue statement form, which included all the soldier’s personal details at the top of the form (with questions to be completed in this regard), such as can be seen on the first pages of the ciphered statements in this case. The person making the statement would read it and sign it on all pages and the investigator taking the statement would witness the signatures. At some subsequent stage, the case file containing all the statements would be completed. SM344 said this would presumably be by the inclusion of a report by the investigator, although he could not recall the administration process (i.e. whether the handwritten statements were submitted as a completed file or whether they submitted their handwritten statements to the typing pool for typing first). He clarified that there would usually be interim reports filed within hours (an interim case report or ‘incarep’ as it was known); and a final report at the end of the investigation. There would not be both reports on every file because of how busy the SIB was at that time.

7.31 Having examined the documents provided to him by my investigator in relation to this inquest, SM344 said that it was clear that at some stage after typing that the statements were redacted, removing anything that would identify the soldier making the statement or indeed any other soldier referred to in it. Therefore the person making the statement would be allocated a cipher or letter and this would continue for each soldier witness in the case. However, he said that, clearly, the full statements showing the full identity of the witnesses would remain with the original case file for continuity of the true identity of the soldier witness. He said he had a vague recall that, as a matter of course, the RMP included a document in the case file identifying by regimental number, rank, unit and details which cipher a particular witness was allocated. However, he was unable to recall who did this or at what stage it happened (whether it was by the investigator, the section leader or their superiors).

7.32 SM344 was not sure that any protocol or guidance notes existed for the redaction of identities and the application of individual ciphers for witnesses. If there was such a protocol, he said it was probably dealt with by superiors; although

he understood that the process was a security measure to protect the identity of a witness. His evidence, however, was that he was “pretty sure that the process was not designed for the identity of a witness to be lost in the fullness of time”. He said bluntly that this “should not happen”. SM344 was pretty confident that any original statement or document identifying specific witnesses to allocated ciphers would have remained firmly in the case file, perhaps in an envelope and stapled firmly inside. That was his recollection and certainly, in his case, he used staples to prevent this document being lost. He gave that evidence because he had personally attended many coroners’ inquests in Northern Ireland and recalled that it was incumbent upon him to be armed with the identifying details of relevant witnesses. He therefore thought that those details stayed with the case file for extraction on such occasions.

7.33 This witness’s evidence was that the distribution of completed investigation reports would be something decided upon by his superiors. Nonetheless, he knew from his wider career experience that this would have included HQNI, the Deputy Provost Marshall (DPM) and Deputy Assistant Provost Marshall (DAPM), HQ SIB RMP UK in England, CCRIIO, respective military units, 1 RMP, Army Legal Services (ALS) and inclusion on the file itself. He was unable to comment on the distribution of the true witness identity details, although he would have assumed that, in addition to these being contained in the original case file, they would have been supplied to others, certainly to CCRIIO. In oral evidence, however, he said that when the completed investigation report was distributed he was confident this would have been redacted, save for the version sent to the CCRIIO. He did not know if the CCRIIO would have been sent the unredacted copy, since he said that was ‘above his pay grade’ but that that CCRIIO would have been “an excellent place to keep them”.

7.34 SM344 described that, as far as he knew, in 1972 the RMP had no investigational aids or forensic equipment at all, not even car radios. He recalled that some RMP officers had monochrome Polaroid cameras. The reason for this escaped him, although he vaguely recalled taking facial photographs of cadavers at postmortem examinations, and these were possibly used as an identification process.

7.35 SM344 explained that in 1972 the RMP was extremely busy, particularly in July of that year. Many shooting incidents involving the army took place, so they were fully tasked following up on incidents. (This evidence was supported by even a cursory examination of the RMP duty list from the days around 9 July 1972.) Each member would have their own cases to pursue but, in addition, would help others on their workloads. It was not uncommon for an individual investigator to be working on dozens of case files simultaneously.

7.36 Turning to this particular incident, SM344 did not recall being involved in the investigation or an interview of soldiers involved at Springhill on 9 July 1972. He accepted that the records indicated that the case had been allocated to him and that he was the most senior person dealing with it. He had no recollection of speaking to anyone in the unit on the matter or receiving any briefing on it. He had read the file

on it which had been produced to him and the ciphered statements (including the statements of Soldiers A and D which he apparently recorded) but had no recall at all of the incident. He was not sure where these statements had been recorded (they said only that they were recorded in Belfast). He said that soldiers moved around and you interviewed them where you could pin them down. He assumed the interviews would have taken place at barrack accommodation, rather than at Corry's Yard. He doubted he had ever gone to Corry's although he had no recall.

7.37 SM344 said he was certainly not aware himself of the true identities of Soldier A or Soldier D. On the basis that Cpl Brobson took four of the ciphered statements, that suggested that he may have been the main investigator in the case. SM344 also had no recollection of an RUC officer named Maynard McBurney, nor of any dealings with him. He agreed, however, that, when he interviewed the soldiers, he would have known that five civilians had died. He had no recollection of speaking to any soldiers in relation to this incident, despite agreeing that the investigation would have had some significance in light of the shootings in Londonderry which had happened recently (Bloody Sunday); and he hoped that they would have spoken to other soldiers who may have been in the wood yard.

7.38 When asked how he could be sure of the accuracy of the soldiers' witness accounts as regards to the number of rounds discharged, SM344 said that there was no means of testing such statements other than his sure knowledge that ammunition security and the issuing of ammunition was of paramount importance in any military unit. At this stage, however, he was unable to recall any details of the actual weapon or ammunition security within units.

7.39 SM344 could not recall compiling the RMP plan in this case but said that, in general, these were created to augment a witness account and based on what the soldier disclosed in interview. He said the original of such a map would have remained in the case file. Nor had he any recollection of attending a postmortem examination in relation to civilians shot during the Springhill incident, although he had attended many such examinations in relation to both soldiers and civilians in Northern Ireland. Such attendance was for the recovery of forensic material, which would have been recorded in the case file. In this case he said that the "RUC would have retained primacy".

7.40 SM344 said that at every inquest he attended in 1972 and 1973 he would have been in possession of the true identities of the ciphered soldier witnesses to hand to the coroner if instructed (which was usually the case). He was sure that this would have been the case in respect of Soldiers A and D in the original Springhill inquest.

7.41 SM344 had been shown some documents headed 'Witness Debrief' and 'Debrief Continuation' in relation to other shooting incidents around that time. He said that he had not seen these forms before and that they were not RMP forms. From perusal of them, he suggested that they were internal unit documents to be completed following incidents in which unit members were involved. Even though

the forms had CCRIO numbers on them, SM344 maintained that they were not RMP forms and that the unit may have got the CCRIO numbers through liaison with 178 Company.

7.42 When questioned by counsel, SM344 was asked a good deal more about the procedures which operated at the time and evidence or information previously given by Warrant Officer Wood (whom he remembered very well) to the Bloody Sunday Inquiry. He was not familiar with the flowchart prepared by WO Wood but agreed that it accorded with what happened at the time. When asked if statements would be provided to the CCRIO in London, he said that he assumed that to be the case and that that was the best location to retain historical documents at the time. There are matters contained within WO Wood's account which SM344 did not recall but, generally, he did not dispute it. He agreed that unredacted statements would be held in Thiepval and a copy retained by the CCRIO.

7.43 SM344 was questioned by Mr Mansfield about the apparent non-attendance of SIB personnel at the postmortems in this case (making the point that the postmortem of David McCafferty had been conducted in the afternoon of 10 July before the recording of at least some of the ciphered statements). As to this, SM344 emphasised that this was a civil police responsibility, with the SIB being there to *assist* the police. He was firmly of the view that postmortems on civilians was entirely a matter for the RUC, although he accepted that there were a number of pieces of information which might be gleaned from a postmortem which would be of assistance (for instance, identifying the deceased, assessing what they were wearing at the time of death, and ascertaining whether there was any ballistics evidence). SM344 said he tried to get to as many as possible, where he was informed, but emphasised that this was an RUC responsibility and how busy the SIB was with many incidents. He agreed that this particular investigation was not just "any old investigation" but "quite unique". He further agreed that he would have known at the time of the interviews with the ciphered soldiers that five civilians had been killed; and that politicians would be asking questions as a result of a priest having been killed.

7.44 SM344 was also taken to a range of excerpts from the report of the Bloody Sunday Inquiry. He did not accept that both the RMP and RUC were sympathetic to soldiers. Although he was aware of unit protectiveness, he said that that was not in this case specifically and he did not know if it had occurred in this case. He had no memory of the Brief for Investigators referred to in para 173.13 of the BSI Report and said he doubted it would have been disseminated down to his level; but said in any event that it generally reflected how the SIB operated. However, it did not seem correct to him that the purpose of taking statements was to keep more senior officers informed but, rather, to capture information for evidential purposes. He agreed that it could be for both purposes.

7.45 SM344 was also unaware of the Aide Memoir referred to at para 173.13 of the BSI Report. He said he also did not agree with it and did not think it was

disseminated down to him. In particular, he took issue with the suggestion that the SIB was not there to assess criminal liability. He said that if anything was disclosed that would incriminate the soldier, this would be used to prosecute them.

7.46 SM344 was unable to account for the discrepancy between the crime report form, noting 43 rounds fired, and the key to the RMP plan which noted that 48 rounds had been fired. He could not recall any part in compiling this plan although accepted that the copy appeared to suggest that he did; albeit he said it could have been any member of the investigative section. He accepted this plan was not particularly scientific and it was hard to discern from the plan itself, without a legend, which ciphered soldier was at each position. He said, however, that no investigator went away and compiled this map from memory. There would have been something from the interview to help with that.

7.47 In oral evidence, SM344 confirmed that no soldier had ever incriminated himself in interview with him. There would be an interview before the statement was made. SM344's habit was to make notes and then write the statement referring back to the notes. He said sometimes he was quite surprised about how well prepared some soldier witnesses were, although sometimes this may be because they had already briefed their commanders first. He also noted that often when there was a firefight, the soldiers would have been in radio contact and that that would be recorded in the Ops room. SM344 said that he was sure that the SIB would have checked the radio logs, although he had no idea who did this. He agreed that an important log would be the company radio log.

7.48 SM344 said that he found offensive a suggestion that he or anyone in the RMP would be suggested to be party to a cover-up. He said he could produce hundreds of soldiers who would disagree with that impression. He denied being involved in any form of cover-up and said he had no knowledge of that type of activity or anything to suggest it.

SM346

7.49 SM346 gave evidence on 12 March 2024. He had previously given a written statement dated 7 November 2023, which he adopted. In July 1972 he was a corporal in 178 Provost Company, SIB of the RMP, also based in Lisburn. He had joined the RMP in October 1966. After the tour in Northern Ireland which covered July 1972 he completed his advanced investigator's course and was promoted to sergeant, either in late 1972 or early 1973.

7.50 SM346 described something of the training which he received. As well as normal military training, as an RMP officer he received basic training on statement writing, crime scene investigation and photography. He had served in a range of locations as a uniformed RMP officer before being deployed to Northern Ireland sometime around 1969 or 1970. He did not recall any specific training for going to

Northern Ireland but mentioned that he did receive training on the yellow card rules of engagement and would also have carried a copy of this when in uniform.

7.51 At the relevant time SM346 was a corporal and said that he had no one under his command but would just have done what the sergeant or staff sergeant detailed him to do. His workload would have been allocated by the sergeant in charge of a section, who was Sgt SM344 at that time. He also remembered working with Cpls SM276 and SM370 in the SIB at that time. He could not remember the name of Cpl Brobson. Like SM344, he described wearing plain clothes and travelling in civilian vehicles. He would have dealt with all normal volume crime within the army (such as assaults, thefts, fraud and arson, etc.) but, due to the nature of the Troubles, it was commonly part of their role to investigate all discharge of weapons by military personnel. The majority of his work was in and around the greater Belfast area. When a job was allocated, he would normally team up with another member of the section to go out and investigate or interview the soldiers involved wherever they were based or made available to them by the regiment. He could see from the RMP duty list which had been made available to him that 1972 was an extremely busy time for the SIB in Northern Ireland.

7.52 At SM346's level he said that he did not recall having any interaction with the RUC, although he assumed that there was some at a higher level. He said that the RUC would not be involved in an SIB investigation as a matter of course during this time, although sometime later (after his promotion) he was based at Donegal Pass RUC Station and embedded in the CID department at that location. In relation to this case, he did not remember meeting Sgt McBurney of the RUC and said that his evidence in this case was the first that he had heard that name.

7.53 SM346 had no specific memory of investigating the shooting which resulted in the deaths of the five individuals which are the subject of this inquest. He did, however, remember attending the original inquest at Crumlin Road Courthouse. Like SM344, he took no issue with the content of his short deposition for the purpose of the inquest. He also remembered being interviewed by the HET at his home, which was in February 2014.

7.54 SM346 had taken the statement of Soldier E. He could no longer recall the identity of the soldier or anything about him at all. In fact, he had no recollection of taking the statement. In questioning, he said that, as far as he could remember, he was given very minimal information before the interview and was basically told there had been a shooting incident. He did not think that he was told that it may have resulted in civilian deaths.

7.55 Having considered the RMP duty list which had been provided to him from MoD disclosure, and having recognised his handwriting on some of the entries dated 9 July 1972, SM346 considered that he was on duty in the SIB Ops Room when reports came in, writing down what was being reported to either himself or the sergeant present. He said you just wrote the incidents down as they were reported

to you, which was usually by telephone. The particular entry (No 3130) which related to the deaths of the persons in this inquest was not in his handwriting and the task had not been allocated to him. He noted that this entry appeared out of sequence and he did not know why this was. He indicated that he did not compile the CCRIO report in relation to the deaths and assumed that SM344 did so. He was uncertain if he had been involved in the investigation of a fatal shooting incident before this one.

7.56 SM346 said that his involvement in the investigation appeared to be that he took a statement from Soldier E. He said again that he had no specific memory of taking the statement, although he did recognise some of the phraseology used as his wording and, combined with his deposition, he had no reason to doubt that he took the statement. He could not recall where the statement was taken and did not recall a location called "HMS Oak" in Belfast, or ever taking a statement on a boat or ship. He noted that the time and date of the statement, 10.35 hours on 10 July 1972, appeared to be within a few hours of the incident occurring. He thought therefore that this soldier must have been made available to SIB by his regiment quite quickly. It was therefore likely to have been taken wherever 1 Kings was based at that time. He did not recall Soldier E's rank. He said he would not, as a matter of routine, have seized the soldier's weapon but would have noted the serial number of it as had been done in Soldier E's statement.

7.57 As to the information available to him at the time of the interview, given the time at which he appeared to have taken the statement SM346 did not think that he would have known the details of the deceased. He said he had no reason to believe Soldier E was being untruthful or that any offence had been committed. He further commented that, "from what I have read there was always some element of a gunman involved in his account", adding that soldiers knew the rules of engagement and were unlikely to incriminate themselves. He later agreed that it was unlikely that they would make admissions about wrongdoing. He did, however, clarify that the SIB did not take everything that a soldier said at face value. That said, he could not recall making any other enquiries, including speaking to other soldiers. It was possible for the RMP to go back and take additional statements, which he thought happened; but he did not remember an instance where he had done so. The tenor of SM346's evidence was very much that his job was simply to take a statement which would be passed on to others for any appropriate follow-up. As the statements were handwritten, SM346 did not tend to take any separate written notes. He could not now say if he would have had a map of the area for the soldier to mark his position on.

7.58 SM346 had no knowledge of his assisting either SM344 or the other interviewing officer with statements from other soldiers. He believed that he had only recorded a statement from Soldier E. He assumed that he would have gone to the location of the interview with someone else but could not remember who that was. He presumed that the SIB would get the details of the soldiers involved before they went out and a member of their unit would then bring them forward. The

reference in his deposition to other enquiries may have been a reference to enquiries made to establish which soldiers were involved in the incident. He did not believe that he would have attended Corry's Wood Yard as part of the investigation, nor visited the Springhill area, explaining that this would not be their normal procedure.

7.59 Most of the above summary is taken from the content of SM346's written statement. In oral evidence there was a great deal which he was unable to remember and, consequently, there were a range of issues upon which his evidence was not of great assistance.

7.60 SM346 was also asked about the use of notebooks by the RMP. He obviously made use of a notebook as the record of his HET interview indicated that he still had his notebook from the time. He said this was a standard issue RMP notebook, similar to a police officer's notebook; and that the HET took it away with them. He later gave evidence that he kept a notebook for specific information they needed to retain. He thought he would have included information about the statement he took with the soldier's name and rank. He said notebooks were issued to all RMP officers and this would have included SM344. They were issued around one per year. They were supposed to hand these in when they were complete, although sometimes that did not happen and he had retained some. In questioning from Mr McIlroy SM346 said that he had not kept all his notebooks and for some reason he only had the one from 1972. As far as he could recall he had it in front of him when he was interviewed by the HET, although technically it belonged to the MoD. He was pretty confident that the HET officers had taken it and said that he had asked for it back. He repeated that he had kept this one notebook for some reason. He had a briefcase which he used when he was in Northern Ireland and he had forgotten that it was there but had checked for notebooks when the HET was coming. As far as he could remember it also covered the period when the original inquest took place but he did not remember what it said about that.

7.61 (Further to this evidence the LIU wrote to both the PSNI and MoD asking them to take steps to locate this notebook, or any other RMP notebooks. The PSNI responded to indicate that searches had been undertaken but no notebook was located. The MoD was also unable to locate this notebook. Its response indicated that the evidence from SM346 about RMP notebooks had come as a surprise to the MoD, since it had not encountered RMP notebooks from the 1970s when dealing with disclosure in other inquests relating to similar time periods. It observed that other witnesses may not support the recollection of SM346 on this issue. After searches, there appeared to be no RMP notebooks available from 1972. 174 Provost Company RMP and an MoD storage archive had some notebooks for much later periods; but the MoD was unable to assist further with this particular query.)

7.62 SM346 was also asked about the witness debrief forms, which he considered *did* look like an RMP aide memoir for completion. He thought he sort of recognised this form as an aid to memory and something they would have used. He could not

remember if he had completed such a form for Soldier E. He presumed he would have done, while the soldier was telling him what happened.

7.63 In answer to questions from Ms Doherty SM346 agreed that he was unlikely to have been involved in a similar incident where five civilians had been killed including children and a priest. Nonetheless, he was afraid that the incident did not stand out in his memory at all. He did not accept that he personally was not equipped to carry out a proper investigation; but said that the circumstances just made it very difficult to conduct an enquiry to his, or anyone's, satisfaction. He agreed with SM344's observation about unit protectiveness and said the army tended to close ranks. Sometimes they could be quite obstructive in not producing soldiers when you needed them; it was not always straightforward. At one point in his evidence it appeared that SM344 suggested that the army may say that it was someone else who was involved; but when he was asked to clarify if that was the case he said he would not go as far as that, nor to suggest that a unit would produce the wrong person. Sometimes units were difficult; but he would not say they would falsify records. His observation that soldiers were unlikely to incriminate themselves was, however, part of what he had meant by obstructiveness.

7.64 In oral evidence SM346 reiterated that he had no knowledge or recollection of the statement taking process, nor why there had been an amendment to soldier E's statement (with 'A' overwritten with 'E'). He said he knew nothing about that. When asked whose job it was to pull all of the information together in the case, he indicated that this was SM344's job as the investigator.

SM278

7.65 SM278 gave evidence on 8 March 2024. He had provided a written statement to the inquest (which was unsigned but approved by him), which he adopted as his evidence. In 1972 SM278 was a corporal attached to the SIB unit of the RMP covering Belfast. His evidence was mainly in relation to the RMP investigation in relation to the SPD incident, which arose close in time and location to the matters under investigation in this inquest. This investigation (CCRIO ref 8553/2) was in relation to a number of gunmen in Corry's Yard, Dunboyne Park and the Springmartin Road firing on members of 1 Kings who were on duty in Corry's Wood Yard between 00.30 and 01.00 on 10 July 1972.

7.66 SM278's evidence was relatively brief. There was much that he could not recall. He also said that he had not taken any of the ciphered statements in this case and was not aware of the soldiers' identities. He said that if he had been involved in the investigation of an incident of this nature it would have stuck in his memory. However, he could not remember this incident at all.

7.67 SM278 was taken to a number of witness debrief forms in relation to the investigation which (contrary to the evidence of SM344 but consistent with that of SM346) he considered to be RMP forms. He said these would generally be

completed if an interview took place and then a statement would be taken afterwards, if it were felt necessary. In serious cases there would be a debrief form *and* a statement; although sometimes the forms would not be completed immediately and would be filled in at a later date. In oral evidence he said he could not think of an incident when there was just a statement without a debrief form. However, he later accepted that there may be an occasion where he spoke to a soldier but it did not merit a statement.

7.68 SM278 did not believe he would have met the senior officers from the company of the soldiers being investigated as that would generally not occur. He did not believe that they would receive a brief first from the soldier's unit. (However, at a later stage of his evidence, in answer to questions from Mr Aiken, SM278 indicated that he would go to the Ops Room and speak to the RSM or the CSM. He said he never dealt with the Adjutant.) Before interviewing a soldier, he would be provided with details of a general nature about the incident by the SIB Sergeant. He believed he would have with him statement forms and debrief forms. He did not believe he would have the soldier's particular details before the interview but that these would come from the soldier himself.

SM279

7.69 SM279 also gave evidence on the same day as SM278. He had also provided an approved but unsigned statement which he adopted in his evidence. He too was a corporal in the SIB unit of the RMP, having been a military police officer since 1967. He had no knowledge of the investigation into the shooting incident in which the deceased in this inquest came by their deaths.

7.70 In his evidence SM279 said the manning levels within the RMP in 1972 were at peacetime levels and the RMP had to be reinforced with extra officers to cope with the situation, which was why he was deployed in 1972. He was asked about the incident which he investigated with SM278 and could not recall either completing the witness debrief forms or the investigation itself. He did say that the witness debrief form was an RMP CCRIO form and that a statement would accompany it. He said the form was not a debrief form but, rather, a document to give a brief outline of what took place. He described this as part of the basic stationery pack which the SIB officers would take with them. He thought if the soldier had fired at a credible target, whether or not he struck them, a statement would have been recorded as well as completion of the debrief form. Like SM278, SM279 said that the term "fighting patrol" was not a term of his and would have been the words of the soldier (in that case, SM79).

7.71 SM279 explained that interviews would happen at the soldier's base. He would contact the Ops Room to make them aware that he would be attending. On arrival, he would usually speak to the watchkeeper of the Ops Room who would arrange for the soldiers to attend for interview. In most cases, a statement would be recorded and soldiers would be asked to mark their approximate location on maps.

SM279 said that the maps would not be detailed like modern maps and that the soldiers could not be specific.

Other witnesses' comments on investigation

7.72 Generally, there was a lack of clarity in relation to whom it was who would make the relevant soldiers available for interview. SM209, the Battalion Adjutant, gave evidence that this would not be a matter for him. He thought the Regimental Sergeant Major (WO1 Jim Weir) may have dealt with the RMP and made arrangements for the soldiers on duty to be interviewed; but said that he did not imagine the RSM would have troubled him with something like that. SM13's evidence was that the soldiers to be interviewed would be a matter for the Company Commander and would be "rounded up" by the CSM.

7.73 A few other soldiers made some comment about the RMP investigation in this case. SM100 gave evidence that, in relation to the shots he discharged on the night believed to be that of 9 July 1972 at the hole in Corry's wall, that he was sure that he gave an account of firing. However, there appears to be no written record of that account which has been made available. He described the interview with the RMP as "informal", talking about what went on.

7.74 SM100 indicated that it was usual practice to have to give an account when you had fired a round. He remembered the SIB came and spoke to him; although, in his recollection, this was "quite a long time after the incident", he thought maybe about 10 days afterwards or maybe longer. He thought others were also spoken to on that occasion. He did not recall filling out a witness debrief document.

7.75 SM123, when questioned on a comment that things had been handled poorly, said that his simple opinion was that the RMP were "too slow off the mark" and should have been in from earlier, in which case things may have been different. He said that was just his opinion; and later accepted that he had not been aware that the RMP had in fact taken statements the day after the incident.

7.76 SM16 was very critical of the failure of the RMP to take a statement from the soldier in charge of the ciphered soldiers setting out their role and the orders which were given to the soldiers under their command.

The arrangements with the RUC

7.77 When asked about the division of labour in cases such as this between the RMP and the civilian police, SM344 said that he could not remember it being the protocol at the time but that the RMP interviewing soldiers and the RUC dealing with civilians was what happened. In Northern Ireland the RMP would involve themselves in any incident involving shooting by the army, either by or against the army. He said that in the first instance, the purpose of the RMP's involvement

would be to record statements. From that, if it was likely that offences were committed, that would be looked at later.

7.78 SM344 gave evidence that in those early days in 1972 liaison with the RUC was “often difficult at many levels”. He considered that this perception probably resulted in the establishment of an RUC officer post embedded within 178 Company in Lisburn which, in his view, was an excellent decision and made the RMP’s task easier. He could not remember when exactly this development occurred. SM346 said he could not recall any interaction with the RUC at his level; and that the RUC would not be involved in an SIB investigation as a matter of course. He also gave evidence that it was difficult to contact the RUC and that very few of them answered the telephone. That was why the new post was later created. He said however that he was not aware of the protocol described in the BSI Report.

7.79 SM344’s evidence was that he would assist the RUC by giving them access to information in any way possible, including radio logs. He welcomed any RUC interest and said that they all (presumably referring to his section of the SIB) would help the RUC. SM278 said that in 1972 he believed that the RMP “had precedence over investigations” and would provide information gathered to the police. Elaborating upon this in oral evidence he said that the RMP did the investigation, not the civil police. To like effect, SM279 said that the RMP “had supremacy over investigations”. It seems that the RUC received “expurgated” versions of documents.

The nature of RMP interviews

7.80 SM344 gave evidence that, in the first instance, the purpose of the RMP’s involvement was to record statements. An investigation may follow if it was likely that offences had been committed. However, their purpose was primarily to record the ‘goings on’ of the incident as soon as possible afterwards, albeit with a broader investigative eye. Later in his evidence, SM344 said that the purpose of the statements recorded was to record a first-hand account of the incident. They were taken without a caution being administered because the soldiers were always treated as witnesses. If, in the course of the interview, a soldier disclosed a potential offence, he could be cautioned and interviewed as a suspect in accordance with the Judges’ Rules; but this never happened in SM344’s experience. In answer to questions from Mr Aiken, SM344 said that, basically, the soldiers would not have considered themselves in jeopardy at this point. SM346 gave similar evidence. In an ideal situation, the investigator would be well-briefed before; but SM344 agreed that they were there to talk to the soldiers to elicit their account.

7.81 Significantly, in answers to questions from Mr Mansfield, SM344 said the soldiers were not really ever challenged about their version of events. That was very difficult because the SIB officers did not have an account from the other side.

7.82 SM344 accepted that it was a possibility that the soldiers would have conferred before they were interviewed by the RMP. Theoretically it was always the

aim to interview them before there was such an opportunity and the SIB tried to get witnesses as early as possible; but, in the circumstances at the time, he said it was amazing that they managed to gather them so quickly. He said they were aware that soldiers could lie and confer but the SIB was aware of that and good at detecting whether a soldier was lying or not. In another answer, however, SM344 indicated that, at least initially, they accepted at face value what they were told by soldiers and by the soldiers' commanders. SM346 also accepted that there was always a possibility of soldiers getting the story straight in advance. He did not think he would have asked the soldier being interviewed about that specifically.

7.83 SM346 was not sure if he would have had a map of the area when the interview took place in order for the soldier to mark his position on it. He knew the RMP did make maps of areas and he presumed that he would have had a map at the time of his interview with the soldier to try to identify locations. He did not know whether the soldier would have pointed out locations or given an address. In answer to questions from Mr Aiken on this topic, SM346 said he could not remember at all what maps he had when he went out but added that, obviously, they had them. When SM344 was asked about this, he said he did not remember having reference material with him. He would have hoped they were armed with that material, as it was necessary.

7.84 SM278 thought that SIB officers would have had a range of materials with them, including a series of maps which could be used to help describe things which had occurred. As on most issues, SM279's evidence was similar to that of SM278 on this. His evidence was that he would take blank statement forms, CCRIO forms and available maps of the area with him. As noted above, he said that soldiers would be asked to mark their approximate location on maps but added that the maps would not be detailed and that the soldiers could not be specific. He later added that the soldier would show where he was when he fired and where he believed the gunman to be. However, he emphasised that this was vague and that the maps were not very good. He said these were taken from an A-Z of Belfast.

7.85 SM344 said that no member of Army Legal Services (ALS) would have been involved or present at RMP interviews with soldiers. The other RMP witnesses confirmed this. SM346 said that Soldier E's statement was not taken under caution; and he did not believe that the soldier would have had access to any form of legal representation before making it. (He was certain, however, that he would have read out the declaration at the end of the statement saying that it was true to the best of the statement-maker's knowledge and belief before he signed it).

7.86 In oral evidence, SM346 indicated that the purpose of going out to interview soldiers was to provide HQ with information about what happened from the soldier's perspective. He repeated his evidence to that effect, indicating that the RMP were there to get information back to HQ and not to make a decision about the alleged act. As noted above, SM346 was very unsure about the information which would have been available to him in advance of the interview but he did not think

that he would have known all of the information which had been provided to the RMP. He again reiterated that the purpose of the interview was to get the soldier's opinion about what happened. He did not believe he had ever sought corroborating evidence and was not aware of ever going to speak to another soldier in this regard, nor seeking out the communications log to verify an account which had been given. He emphasised that the SIB did not have time to do much at all at that time.

7.87 Similarly, in his evidence SM278 indicated that he could not recall independent corroboration being sought from other soldiers in relation to what the soldier had said. (SM278 did add, however, in answer to questions from Mr Skelt, say that it was open to him to make any further enquiries he thought appropriate or which the Sergeant directed. To like effect, SM279 confirmed that there were no restrictions on who he could ask to speak to, which could be pursued with the Ops Room or the CSM.)

7.88 I found the evidence of SM346 to be interesting when he commented that, in relation to the statement of Soldier E which he took, he recognised some of the phraseology used as *his* wording. (At the same time, when questioned about Soldier D's statement, which SM344 had taken, he (SM344) made the point that some of the wording, such as "gunmen", was not in his vocabulary and he thought this must have come from the soldier. He did accept, however, that there was similar wording in relation to whether Soldier A and Soldier D had seen someone resembling a priest, which was likely wording which had come from him in terms of how he phrased this question.) SM346 said he could not remember what bits of the statement he was referring to when he made the observation in his evidence; but it was just the way that it was written that sounded like him: no specific phrase, just the style of writing. I did not find his evidence particularly convincing on this point. It gave rise to concern that some RMP officers might either suggest wording to a soldier or 'tidy up' the soldier's own wording when the RMP officer came to draft the statement for signature. In his evidence, SM278 referred to some wording (in the debrief form) as wording which would *not* be his own but that of the soldier (in this instance, the term was "fighting patrol" which he said would have been SM16's words); and SM279 gave evidence to similar effect in relation to SM79's form.

Failure to seize weapons

7.89 SM344 said that it would have been a routine matter to seize the weapon in a shooting investigation where there was a possibility or necessity of forensic analysis with recovered rounds. From the details that he had read on this particular case, he thought it would indicate that the weapons would have been seized, secured and submitted to DIFS. He said that, if the relevant weapons were not secured at the time, then at least the identifying serial numbers should have been recorded. In relation to the suggestion that weapons did not appear to have been seized in this case, he simply said that a small unit in a tactical deployment would have had issues with being depleted in many weapons at the same time. However, he said this would have been worked on to arrive at a solution. In answer to questions from Mr

Aiken, SM344 reiterated again that he did not think the general situation would have been the reason why weapons were not seized. He said there was a plethora of managers above him who would have taken great interest (particularly in view of the earlier Londonderry shootings). The only proper explanation he could give was if the SIB had early results from postmortems which indicated that no material had been recovered from corpses, in which case there was no reason to seize weapons. He emphasised that seizing weapons and transporting them posed security problems for the SIB itself. However, he felt they should be taken in every case. He took issue with the suggestion that there was not a practice of seizing weapons more generally and said that he knew that he had submitted "many, many weapons" to DIFS in similar circumstances.

7.90 In the present case, SM344 said he could not believe or accept that weapons were not seized. The only circumstances which would result in non-seizure was if it was known at the time that there was no recoverable ballistic material from those killed, which he did not think would apply in this case (as the postmortems would not have been concluded before the interviews on 10 July). He was convinced the weapons would be seized, particularly after the events in Londonderry (referring to Bloody Sunday). His evidence on this point was stark. He said he could not believe that someone said the RMP did not need to seize the weapons and felt that it must have been done. If this had happened it would have been recorded in the Diary of Events on the file.

7.91 SM346's evidence on this point was of a different nature. He said that he would not as a matter of routine have seized the soldier's weapon, although he would have noted the serial number of it (as had been done in Soldier E's statement, which he took). He did not recall ever asking to seize a weapon. As far as he remembered, this did not happen at all. There were a lot of incidents and the SIB were very few number and so, he said, they could only make limited enquiries which "wasn't very satisfactory".

7.92 SM344 did accept that unit commanders would not be happy losing a significant number of weapons. He also indicated in answers to questions from Mr Mansfield that he would like to believe there was an arrangement for delayed seizure of weapons, until the SIB was aware there was something forensic to compare them with. He could not accept that this issue was ignored but said there was no documentation available to show how the matter was dealt with.

7.93 SM344 knew SM346. He did not work with him before Northern Ireland but did afterwards and in Northern Ireland. SM346 could not explain SM344's evidence that he had never known weapons to be seized. He emphasised again that there was sometimes much reluctance in units to hand over weapons, among other things.

7.94 On these issues, SM278 said that he could not recall checking guns or seizing them during RMP investigations. In answer to a question, he said he did not have any training in relation to that and he was never asked to inspect or seize a weapon.

He further said that he had never seen a weapon being seized by the SIB. SM279 also said that the RMP would not seize weapons. He said the soldier kept the weapon with him on his person at all times and he would be surprised if there was an armoury. He explained that the RMP did not seize the gun as that would make the soldier inoperable. On his evidence, a weapon would not be seized even if there had been the death; and weapons were never seized.

Accounting for rounds

7.95 A range of evidence from military witnesses as to the arrangements for accounting for discharged rounds is discussed in Chapter 4. There was evidence to the effect that at least some records would be kept of rounds issued, discharged and replaced; although there was far from unanimity as to who exactly within the company would be responsible for this.

7.96 In his evidence, SM344 emphasised that ammunition security was of paramount importance in any military unit, a theme which resonated throughout the military evidence. However, when questioned by Mr Mansfield about the apparent lack of any attempt to check the statements in this case with the armoury log, SM344 said that the SIB could not do that, adding that they were “in a war zone”. Any checks which may have been done in this regard were not within his recall. When he was asked about this, SM346 said that he did not think that the army made such checks at all. Soldiers were given rounds which they kept themselves and did not hand back at the end of the shift.

7.97 SM278 said that he could not recall checking armoury records in the course of investigations. He believed that soldiers kept the same weapon for the whole tour. SM279 again agreed. He said armoury records were not checked. As noted above, his evidence was that he would be surprised if there was an armoury but that the number of shots discharged could be verified with the watchkeeper. He could do this where he thought it was necessary; but would not if the soldier appeared credible. Other sources of information were, however, available via the Ops Room. Questioned further about the purported lack of an armoury, SM279 said a normal army base in a peacetime location would have one of these but, in Northern Ireland, the army would not be in purpose-built premises. If an armoury was available it would be very, very basic. His recollection was that the serviceman kept the weapon with him at all times, even when sleeping and off duty. He was not suggesting, however, that there was no means of regulating the distribution of ammunition.

Visit to the scene

7.98 SM344 could not recall visiting Corry’s Yard for the purpose of the investigation and thought it unlikely that he would have done so. However, the RMP radio log for 13 July 1972 records him and Cpl Brobson reporting out to Corry’s Wood Yard at 19.30 “for further enquiries into the murder of Father Fitzpatrick”. The entry also notes that photographs of the scene were taken. In view of the lack of

documents from the RMP file other than the statements, no further information about this visit, and none of the photographs, were available.

The apparent absence of a crime report

7.99 At the bottom of the crime report form, there appears to be an entry which says, "No report". (SM344, the investigator, indicated that this was not written in his handwriting.) However, there is also a memo from SM263 (a Captain within the Army Legal Services) to RSM 178 Pro Coy RMP in relation to the incident, dated 25 July 1972, saying that "if this report is to be submitted to the RUC for production at a Coroner's Court" he would draw attention to a typing error in the statement of Soldier A. (The memo from SM263 also said that he believed it would be "helpful, if only to defeat propaganda, to explain why it was that Soldier A having apparently killed 2 gunmen, took no steps to secure the bodies".)

7.100 SM263's memo would suggest that there was a report compiled by the RMP (unless the statements were simply referred to collectively as the report, which I think unlikely). In his evidence SM344 said that the investigation report was missing or at least had not been produced. Eventually, there should have been a whole narrative report summarising all of the evidence available. SM344 also gave evidence that one of the most useful documents was a Diary of Events which was usually stapled to the inside cover of the file and which recorded anything which happened involving witnesses or the case. This document was very useful if the file was handed over to another investigator.

7.101 I am perplexed and concerned to note that no investigation report, even in redacted form, has been disclosed to the inquest by the MoD. Given that this report would seemingly have been the subject of distribution to a range of army units or agencies, it is surprising that no version still appears to exist. In my view this gives rise to an obvious suspicion that copies of the report may have been intentionally destroyed or misplaced.

No records remaining of true identity of ciphered soldiers

7.102 SM344's evidence suggested that there should have been a number of ways in which the true identity of the ciphered soldiers should have been capable of being known. In the first instance, their details were required to be inserted in the standard statement form. This would have included all of the relevant details allowing the statement maker to be identified with precision. It is quite possible, indeed likely, that the report compiled by the investigator would also contain the identity of the relevant witnesses or participants in respect of the incident. SM344 also had a recollection, albeit vague, of a document included in the case file specifically to identify the allocation of ciphers to identified soldiers. His evidence was that the true identity of those giving statements should not be lost, adding that the original statements or the document providing identities would have remained firmly in the case file, perhaps stapled inside in the case of the latter document.

7.103 SM344 said he would like to think that the original, unredacted signed statements were retained at all stages of the case file. He had no idea what happened to the file on completion. This was 'above his pay grade'. However, he believed that the files were kept in a steel cabinet in HQ 178 from where RMP officers could extract details if attending an inquest. It was only members of SIB who had access to this. Both SM344 and SM346 could not account for how the situation had arisen in the present case. SM346 said he had no explanation as to why it was now not possible for the MoD to provide the identities of soldiers, when they originally had this information. He did not know what had happened to the original handwritten statements that would have been kept at HQ 178 Provost Company. He was not familiar with the idea of the red book and black book which was discussed in the BSI Report.

7.104 I have noted that the handwritten statements in at least one other RMP file (08492/2) from that time are available and have been made available to the inquest. For instance, there are statements from SM92 and SM93 of C Company, 1 Kings, taken on the night of 9 July 1972 at Springfield Parade, seemingly by two different RMP officers, in relation to the shooting of SM9. These remain available and were disclosed to the inquest. If SM278's evidence was correct, in cases where there were statements taken there should also have been witness debrief forms. (His evidence was to the effect that there may be less serious cases with just debrief forms but no statements; but he also appeared to me to suggest that, where there were statements, there should also be debrief forms.) SM279 also said he could not remember recording a statement without also filling in a debrief form. Assuming this to be correct, the debrief forms accompanying the statements would have been a further source of the soldiers' identifying details.

7.105 In summary, the evidence was that there ought to have been a range of documents which included the identity of the statement makers: at the very least the statements themselves but probably also a cipher list and the investigation report, if not additional documents also. The original file should have been held securely.

7.106 The fact that none of these documents are now available and do not appear to be retained appears to me to be a matter of some significance. I find it hard to believe that the present unavailability of *any* document disclosing the identity of the ciphered soldiers which is capable of being provided to the inquest by the MoD has arisen by means which can be explained wholly innocently. In his evidence, SM344 agreed that the original statements and the cipher list appear to be missing here. He said that he was "astonished" that such a thing could happen. Even in the early 1970s the RMP prided itself on a high level of security and the original statement with the identification of the witness was extremely important. It needed to be secured and retained, perhaps forever. SM344 said that he could not imagine what lapse of security led to its apparent disappearance.

7.107 I should also add that, on the basis of the RMP evidence, it seems likely that the true identities of the ciphered soldiers were provided to the coroner in 1973 in a sealed envelope. SM344's evidence was that he would have been in possession of the true identities of the ciphered soldier witnesses, which would usually have been contained in an envelope, and that he would have handed this to the coroner if instructed, which was usually the case. His deposition in the original inquest notes that he provided copies of the statements of Soldiers A and D. The handwritten notes at the end of the deposition – usually representing the coroner's own annotation of additional information provided in the course of evidence – give those statements exhibit numbers and went on to say, "Their identities are in the envelope, Exhibit C3". Similarly, the notes on SM346's deposition refer to Soldier E's statement as Exhibit C2 and adds, "and an envelope giving his identity (Exhibit C3)". Insofar as there has been any failure on the part of other state authorities, such as the predecessor organisations of the Coroners' Service for Northern Ireland, to safeguard or retain information or documentation which might assist in identifying the ciphered soldiers, that too is a matter of concern and for regret. However, I understand that the practice may have been for the coroner to return the cipher list to the RMP officer in attendance.

Conclusion on RMP investigation

7.108 There were a range of shortcomings in the processes adopted at the time for investigation of shootings of civilians by army personnel. These have been addressed in a range of other inquests and inquiries (most notably the Bloody Sunday Inquiry) and it is unnecessary, in my view, to cover again well-trodden territory. A number of points stand out, however, from the evidence I heard on these issues as follows:

- (a) The system for taking accounts from relevant witnesses was not particularly robust. RMP officers were heavily dependent on the relevant unit to produce the soldiers; they would attend at short notice and with little detailed information on the incident to be investigated or the soldier's likely role in it; there was little done by way of probing or checking the soldier's account by reference to other materials (largely due to pressures of time rather than any difficulty in principle with doing so, but also because of the separation of investigative roles so that the RMP did not have the accounts of civilian witnesses); and the maps available at interview were unlikely to produce wholly accurate depictions of locations. The purpose of the process was mostly to obtain the soldier's account, which was taken at face value, rather than conduct a probing interview as one might with a suspect.
- (b) The division of labour between the police and the RMP did not work well in terms of ensuring a robust, thorough and effective investigation. There was limited cooperation or cross-over in terms of investigative effort; and an absence of joined-up approach to ensure that the product of civilian and

military enquiries were considered together and appropriate further avenues of enquiry then pursued.

- (c) By reason of lack of time and resources, and for other operational reasons (some of which may have been entirely valid), evidential and forensic opportunities were routinely not pursued or unable to be pursued. This included seizure of weapons and consideration of armoury records, although the latter may have been of assistance only in cases (unlike the present) where ballistic material could be recovered from the scene or from the body of a deceased or injured person.

7.109 I am concerned that the RMP appear to have been heavily reliant on unit commanders – who were said to sometimes be protective of their soldiers – to identify those soldiers who should be interviewed in relation to a particular incident. Whilst it is clear that the RMP could seek to interview other soldiers (particularly those who, in the course of interviews, were identified by the statement-makers as being able to contribute something of evidential value) there was the potential for manipulation of the process.

7.110 Leaving aside these generic difficulties with the way in which the system operated, there were a number of striking matters of concern in relation to this investigation or, at least, the product of the investigation. In answering questions from Mr Mansfield SM344 accepted that it was remarkable that a number of things were apparently not done in this case, in particular the non-seizure of weapons. In answering questions from Mr McTaggart, SM344 said that a lot struck him as “strange” in this case, with particular reference to things missing from the case file. As I have already observed, the scale of missing information in this case gives rise, at the very least, to an extremely strong suspicion that information has been removed or destroyed for reasons which are improper.

7.111 In my view, neither the RMP investigation, nor the police investigation, either separately or in combination, amounted to an effective investigation of the deaths in this case at the time. As noted above, particularly in the case of the police, there were reasons why their efforts were hampered which were not their fault. Nonetheless, it was left to other mechanisms to in due course perform the function of fully investigating the deaths.

The original inquest

7.112 An inquest was held on Thursday 26 July 1973 before JHS Elliott, the Coroner for the City of Belfast. At least some of the next of kin were represented by counsel at the inquest, as was the Ministry of Defence and Ministry of Home Affairs. The inquest returned an open verdict as to each death.

7.113 All of the deaths were considered to have occurred on 9 July 1972. In respect of the death of John Dougal, the time and place of death were given as between 9.15

and 11.00 pm at Westrock Drive. In relation to the death of Fr Fitzpatrick, the time of and place death was given as 10.00 pm at Westrock Drive. In respect of the death of Patrick Butler, the time and place of death was again given as 10.00 pm at Westrock Drive. In David McCafferty's case, the verdict again gave a time and place of death as 10.00 pm on Westrock Drive. In the case of Margaret Gargan, the coroner's conclusion was that the time and place of death was at 10.10 pm at Westrock Gardens.

7.114 With the exception of the relatively broad timescale given in relation to the death of John Dougal - which may well reflect the fact that it was difficult to pinpoint when Mr Dougal died from the injuries after initially having been shot and given that he lay outside the bungalows for some time - the original coroner gave relatively precise times for the deaths of the deceased. He plainly considered that Fr Fitzpatrick, Patrick Butler and David McCafferty died at about the same time; and that Margaret Gargan was killed at a time proximate to their deaths, in his view around 10 minutes later.

7.115 I have considered all of the depositions provided in respect of the 1973 inquest. In some cases the maker of the deposition was available to give evidence in the course of this inquest and, where that was so, they were usually asked about the content of their earlier deposition. In some cases, the maker was unavailable or simply not required because of the nature of the evidence. In the 1973 inquest itself, only some witnesses gave evidence. Where a deposition was not addressed by a witness giving oral evidence in this inquest, I have nonetheless considered it. It was agreed that these depositions could be received by me without further evidence pursuant to rule 17 of the Coroners' Rules. In considering the weight to be given to these, I have taken into account that the makers have not been able to be tested on their evidence.

7.116 At the same time, in some instances those witnesses did provide their evidence on oath to the 1973 inquest and were questioned in relation to it (with the coroner making handwritten amendments or additions to the depositions reflecting significant oral evidence). I also recognise that, assuming a witness is seeking to give an honest account, the account given then, shortly after the incident in question, may well be more reliable than an account given many years later. I have mentioned a number of these depositions throughout this ruling where I consider that necessary or appropriate. I have not mentioned them all since some merely gave uncontentious evidence about matters such as steps taken in the police investigation or the identification of the deceased's bodies.

7.117 Other than the verdicts and the depositions (including those annotated by the coroner) there is relatively little evidence available about the conduct of the original inquest. Some witnesses before me touched on this briefly if they had been at the original inquest proceedings; but not in much detail. The clearest indication of the position taken by the government (at least the devolved government) may come from press reporting, discussed below.

7.118 There is a handwritten memo from SM344 of the SIB at Lisburn to Sgt McBurney of the RUC - which looks to be dated 30 January 1972 - providing him with the depositions, as requested, and asking for a signed receipt for these. (SM344 said - and I agree - that the date must have been a mistake, since this predates the incident itself. It seems likely the correct date was 30 January 1973.) SM346 remembers going to the inquest. He said he did not listen to other evidence at all. He was brought in for his bit of evidence and then left. The ciphered soldiers did not attend to give evidence; nor would they (or at least some of them) have been compellable witnesses in light of the law as it stood at that time.

7.119 The depositions were generally short and direct. Anthony Meenan, in his statement to this inquest, indicated that his previous inquest statement was broadly correct but appeared to have details which had been left out. (He cited as examples his having spoken to a priest on Westrock Drive and trying to inform the Gargans of what happened to their daughter.) These are not particularly significant but do indicate that more details could have been provided. The deposition of Charles Butler identifying Patrick Butler was corrected as it said that he had last seen Patrick at about 9.00 pm "last night", indicating that the deposition (or, more likely, the statement which was then converted into the text of the deposition) was taken very shortly after the death, on 10 July 1972.

7.120 David McCafferty could not remember making his statement to the original inquest but did not take any issue with it. He did remember, however, going to the original inquest at the Crumlin Road Courthouse and said that he "thought the whole thing was very phoney". He recalled that he gave his evidence to the coroner in person but, when it came to the soldiers who had fired shots, they were not there. Their statements were read out by a different soldier who was unconnected to the shooting, about which he was unhappy. (SM100 gave evidence that he was aware that CSM Bennett decided on what RMP statements would be used at the inquest at that time; although the basis for, and reliability of, this belief was not entirely clear to me.) Although not repeated before me in evidence, a note of a meeting between the HET team and the McCafferty family in June 2007 recorded Mr McCafferty saying that a young, unknown detective who was at the inquest had said to him that there was "a madman" that night shooting everybody.

7.121 There are obviously many more witnesses in this inquest than there were at the original inquest. That may be because the scope of the inquiry now is much wider than would ordinarily have been the case then. However, there were a number of eyewitness accounts which could have been given, but were not, in the original inquest. Many of the witnesses may have been unknown or unwilling to come forward. By way of example in relation to the death of Margaret Gargan, however, none of the three children who (as adults) have given evidence that they were with Margaret at the time of her death - Marie Meenan, Elizabeth Meenan and Rosemary Kennedy - gave any evidence at the 1973 inquest.

7.122 Some news reports of the inquest hearing are available. The *Belfast Telegraph* carried a detailed report on Thursday 26 July 1973, some relevant portions of which are set out below:

“Open verdicts were returned at Belfast Coroner’s Court today on five people – one of them a Roman Catholic priest – who died during shooting in the Westrock Estate last July...

Mr Robert D. Carswell for the Minister of Home Affairs said evidence would be presented to show that the five persons had died in the course of a gun battle on the night of July 9, 1972. He said that on that occasion, some soldiers were stationed in a timber yard and were on alert for terrorist activity. Their statements would show there had been considerable cross-fire between them and a number of gunmen from 8-20 that evening until one o’clock the following morning.

He said the evidence would be disputed by several civilian witnesses who would allege that no shots were fired from the Westrock Estate. It could not be established by physical or scientific evidence what weapons shot the persons concerned.

There was nothing either to suggest what each of them had been doing but he felt they could safely presume that Fr. Fitzpatrick had been engaged on humanitarian activities and that the girl was not likely to be engaged in anything unlawful.

The soldiers would say they only shot at identified targets carrying weapons.”

7.123 The report also includes submissions made by Mr Carswell on behalf of the Ministry of Home Affairs as to how the competing evidence might be resolved:

“This led to several possibilities which were, that soldiers wrongly identified targets; they could have missed targets aimed at and stray bullets could have hit unconcerned persons and that there was there was a crossfire and terrorist bullets struck some people or that eye witnesses were wrong and that some of the deceased may have been gunmen shot by the soldiers.

He suggested, however, that the evidence was against the last possibility and they felt they could rule out the priest and the 13-year-old girl. He said there was no evidence whatever to show that the three men had been involved in any unlawful shooting.

Forensic tests taken to show if there were any deposits of lead on their bodies or clothes had all proved negative.”

7.124 Further details were provided as follows, which also seem to relate to counsel’s opening submissions before evidence was then addressed:

“It was stated that Fr. Fitzpatrick, Butler and McCafferty were all shot near a house on Westrock Drive. Dougal had been shot some time earlier that evening and the girl was apparently returning home from a community centre when fatally injured.”

7.125 It seems that a similar report appeared in the *Irish News*. The Springhill Massacre booklet quotes from such a report setting out content in very similar terms to the above. A similar account is set out in the entry relating to the death of Fr Fitzpatrick in the publication, *Lost Lives* (at p 216).

7.126 As indicated above, open verdicts were returned. The newspaper reports indicate that, after hearing evidence from 19 witnesses, the city coroner Mr James Elliott commented that, “It must come as a surprise that terrorists get support in any area at all when one thinks of the risks to which ordinary residents are put by those who are supposed to be protecting them”.

The St Aidan’s Inquiry

7.127 Members of the Springhill and Westrock communities, and the families of the deceased, understandably remained unhappy with the level of investigation which had been carried out in the early 1970s. When the 1992 version of the Springhill Massacre pamphlet was launched, in conjunction with the 20th anniversary of the deaths, the local community indicated that, if there was not a government-organised inquiry into the deaths, they would organise their own.

7.128 As noted in Chapter 5, it seems that, around 1999, Relatives for Justice (Rfj) became involved in the campaign for an independent inquiry into the deaths at Springhill. A number of things appear to have happened at or around this time with a view to increasing the public pressure for such an inquiry. The further version of the Springhill Massacre booklet was produced; a range of interviews with witnesses were undertaken by interested solicitors; and an event was held at St Aidan’s School which was referred to as ‘the People’s Inquest’ or ‘the People’s Inquiry’.

7.129 When the 1999 edition of the booklet was launched, the article from *An Phoblacht* of 24 June 1999 publicising this also noted that submissions were being sought for a public hearing on the army's actions, which was being held during the 1999 West Belfast Festival (*Féile an Phoball*) at St Aidan's School on 2 August. Niall Murphy of Madden & Finucane, Solicitors, as well as Michael Crawford and Joe McVeigh, were due to be in attendance at Springhill Community House on Monday and Tuesday evenings to take statements. People could contact the Community House, RfJ or Madden & Finucane to arrange interviews. It seems that this is the genesis of some of the previous statements given to solicitors which have been addressed in evidence. A number of witnesses said they could not remember giving these statements or the circumstances in which they came to be given (for instance, Rosemary Kennedy).

7.130 A significant person involved in the organisation of the St Aidan's event was Ms Irene Sherry, from whom details were sought by my investigator. Thomas Ramsey gave evidence that the St Aidan's Inquiry was organised by Fr Des Wilson and coordinated by Irene Sherry. He said that Tony McCabe then completed a pamphlet from that working from the Fr Des Wilson Community House. Brian O'Kelly said that the inquiry at St Aidan's (and a video which he thought preceded it) had been organised by Fr Des Wilson, who was well known to him.

7.131 Ms Sherry indicated to my investigator that she did not have much recall of the specifics of the event but gave what details she said she could remember. As secretary of the Springhill Massacre Committee, she chaired the event on Monday 2 August 1999. It was titled, 'Springhill, the Forgotten Massacre, Time for Truth'. She welcomed people to the event on behalf of the committee and RfJ. She said the event aimed to chronologically detail the killings through the accounts of witnesses and survivors, presenting as clear a picture as possible for the benefit of public understanding. Ms Sherry said the event was recorded and she understood that the LIU had a copy of the footage. In fact, no video footage of the event seems to be available. Ms Sherry said she did not have this. The event was tape recorded, however, and a (partial) transcript of the audio recording has been provided, which seems to have been typed up in January 2002. I have considered this in full.

7.132 There were three people on the panel in some way receiving or directing the evidence. These were Mr Don Mullan, an author of a book in relation to Bloody Sunday and who was also conducting an investigation into the Dublin-Monaghan bombings; Mr Gerry Duddy, whose father was killed on Bloody Sunday; and Ms Jacqueline Butler, the daughter of Patrick Butler. This was confirmed in the evidence of Jacqueline Thompson (née Butler) in which she said that, in 1999, an inquiry was held at St Aidan's School. She was approached by RfJ to speak and it, which she did. All of the panel members made brief introductory comments, as well as Fr Des Wilson from the Springhill Community House.

7.133 It seems that Mr Mullan did most of the questioning, insofar as questions were asked of contributors. In the course of his contributions he described the event

as a fact-gathering experience. He said that he had been asked to hold witnesses to about three to five minutes given the time constraints. Contributions were therefore necessarily limited. I also note that, during the course of his contribution at the event, Thomas Ramsey mentioned that there were people who were not prepared to come and make statements. The overall account was therefore also partial (indeed, in both senses of that word).

7.134 Accounts were given or read on behalf of Tommy Gorman; Gerard Heath; Robert (Goose) Russell; Martin Dudley; Martin McWilliams; Theresa McGuinness; John O'Donoghue; Liam Stone; Brian O'Kelly; Thomas Ramsey; Kate Donnelly; Brian Petticrew; Paddy Meenan; Rosemary Heath; and Elizabeth Meenan.

7.135 Reference to the substance of the accounts provided during the St Aidan's event are addressed elsewhere in this ruling. It seems that a number of pages may be missing from the transcript which has been provided by Ó Muirigh Solicitors, including a portion of the evidence of Tommy Gorman and a portion of the evidence of Robert Russell. This was not ideal; and I was concerned that there may have been content which, for some reason, had either been omitted or withheld. (This is not intended as any suggestion of wrongdoing by the solicitors; but simply a reflection of what may have been provided to them.)

7.136 Some accounts were simply read out at the event, for instance by Mr Murphy, where the witness was not available (or, perhaps, where they did not wish to speak out themselves). Rosemary Kennedy indicated that she was not present at the St Aidan's inquiry where her statement was read out; and that she knew nothing about it. She maintained in questioning that she knew or could remember nothing about the circumstances of giving statements prior to her interview with my investigator. Kate Donnelly thought she remembered making her statement to KRW but was not totally sure. She said it was not taken in an office but in a house. She could not remember who took the statement but was told it was a solicitor. She said she would prefer not to adopt her KRW statement as there were some things in it she did not say (referring in particular to the reference to two bullet wounds on Fr Fitzpatrick: she clarified that there were two large holes, one on the right and one of the left). She was aware that statements were read out at St Aidan's but said she had not gone to that event.

7.137 Harry Gargan also said that he had no knowledge of the St Aidan's event, as he had no involvement in it. He did not believe the Gargan family had any involvement. He did not know Irene Sherry who had been said to have run the event.

7.138 In the transcript of Thomas Ramsey's contribution to the event he refers to a number of people he had spoken to indicating that they were not prepared to come and make statements. He also made clear that he had provided information at that event which he felt had come from other people in the audience (particularly in relation to the summer scheme which may have finished early). It is clear from

reading the transcript of his contribution, and others, that the event was fairly participative, with audience members contributing comments or information by shouting out.

7.139 Around this time, or possibly in conjunction with the St Aidan's Inquiry, a short video was produced about the events of 9 July 1972 including contributions from Martin Dudley, Brian O'Kelly, Patrick Butler Jr and Rosemary Heath. This was referred to at times in the inquest as 'the YouTube video' as it is available on that platform. Brian O'Kelly's evidence suggested that Fr Des Wilson also had some involvement in assisting with the production of this video. The video, and a transcript of it, were available to me in the course of the inquiry and some witnesses were questioned in relation to what they had said in it.

The Historical Enquiries Team review

7.140 A further investigative process undertaken on the part of the State at a much later stage was a Historical Enquiries Team (HET) review. Materials from a review of each of the five deaths by HET were contained within the PSNI non-sensitive disclosure. The HET material consists of five individual *draft* Review Summary Reports, material gathered during the course of the review, and material produced by the HET in undertaking its own enquiries. There was a significant body of such material in one form or another, some of it simply representing notes, comments, thoughts or speculation on the part of the relevant team. The name for the HET review was Operation Portville/Portola.

7.141 The HET team met with the next of kin of Fr Fitzpatrick, David McCafferty and Margaret Gargan in the first half of 2007. From the material available, it appears as though the next of kin of John Dougal and Patrick Butler did not engage with the HET reviews. In or around August 2007, reviews into all five deaths commenced. Significantly, however, the reviews did not result in the production of final, or completed, reports (the reason for which I address below).

7.142 During the course of their review, the HET team made efforts to understand what had occurred on the evening of 9 July 1972; to seek to provide information to the next of kin of which they were previously unaware; and to provide answers to specific questions posed by the next of kin. The HET sought to identify potential witnesses, both civilian and military, several of whom were subsequently interviewed. The information uncovered during these interviews has been helpful in some respects and is referred to in various places throughout this ruling.

7.143 Such is the manner in which some of the HET-generated material is presented that some of it is difficult to decipher or to know from whom, when and in what circumstances information came to be included. Draft reports were prepared, which include some provisional conclusions reached by the HET in respect of each death. However, there is no information allowing these reports to be dated within the span of the six-year review. Moreover, their content appears to suggest they may have

been prepared following a review of existing information and *before* witness interviews were undertaken by HET.

7.144 In 2012 (during the course of these reviews, amongst others) the Minister of Justice for Northern Ireland commissioned Her Majesty's Inspectorate of Constabulary (HMIC) to inspect the role and function of the HET. HMIC published a report following its inspection in July 2013. Later that year, in October, Tina Barnett, Temporary Detective Chief Superintendent and newly appointed Head of HET, wrote to the next of kin to advise that the Review Summary Reports had been put on hold. Subsequent Situation Report Forms and Risk Assessments record that actions remained outstanding at the time of suspension. Consequently, and as it appears the draft reports were prepared before witnesses were interviewed, I do not feel that I can rely on the HET provisional findings; nor do I consider it would be fair to the HET team to do so given the interruption and non-completion of the review process they were undertaking. In general, however, the draft conclusions were pointing towards the gunman in each case being unidentified.

7.145 As already stated, certain instructive or interesting information contained within HET notes – usually of interviews or telephone conversations with civilian or military witnesses – have been considered and are addressed elsewhere. Where witnesses who gave evidence in this inquest had previously been interviewed by the HET, the content of the HET notes or records was frequently put to them in examination. As also already stated, it was not uncommon for witnesses to resile from, or take issue with, what was recorded by HET officers as having been said or indicated by them (examples include Anthony Meenan and, strikingly, SM10). The impression I formed was that these officers, at least on some occasions, were effective in encouraging witnesses to speak candidly and perhaps disclose information they later regretted in the course of the more formal inquest proceedings.

Further KRW statements

7.146 Sometime after the St Aidan's event the campaign for an inquest or inquiry was reinvigorated. A number of further statements were taken, in a more forensic manner and with greater legal input than before, in or around 2013. It seems likely that this was, in part, in response to the appointment of a new Attorney General for Northern Ireland consequent upon the devolution of policing and justice in 2010 and with a view to requesting the Attorney General (as he ultimately did) to order a fresh inquest pursuant to his powers under section 14 of the Coroners Act (Northern Ireland) 1959.

7.147 This process appears to have involved statements being formally taken and signed by some witnesses, with the assistance of trained lawyers such as Bobbie-Leigh Herdman and James Mehigan, both barristers. Gerard Heath's evidence (discussed in detail in Chapter 9) provides a helpful illustration of the nature of the process. In 1999 there is an attendance note taken by a solicitors' firm, believed to be

KRW. (This seems to have been read out at the St Aidan's Inquiry by Mr Niall Murphy, Solicitor, with some corrections and minor amendments). The attendance note provides only brief detail and some obvious spelling and other mistakes. The statement taken from Mr Heath in 2013 is much more detailed, appending a map with detailed markings on it indicating relevant locations, signed by Mr Heath and counter-signed by a witness, Mr Mehigan.

7.148 Again, however, on occasion witnesses took issue with the content of these statements. For example, Rosemary Kennedy could not remember giving a statement in 2013. She denied this was her statement even though she recognised her signature at the end.

The 2016 MoD process

7.149 During an interview with my investigator, SM108 indicated that, in 2016, the military (38 Infantry Brigade) had sent him "a letter about this case". He showed this to my investigator and later provided a copy which was appended to his statement. A Sergeant SM376 and another man then called out to see SM108, possibly in 2017 (although he could not be sure of the date). They were with him for several hours asking about the incident, during which they took notes. SM108 said that he had never heard anything again from them.

7.150 The letter itself was dated 14 September 2016 with the reference 'INQ: Springhillx5' and was from SO1 Policy and Legacy, 38 (Irish) Brigade. It referred to the circumstances surrounding the deaths of those killed during the Northern Ireland Troubles being under review by many bodies since 2006, including the HET and PSNI. It noted that some new inquests had been ordered by the AGNI, some of which were examining cases in which the military were involved. It then explained that the MoD had an obligation to assist the coronial process with disclosure and that it was inevitable that witnesses would be required to provide evidence. It then said:

"I am writing to you in respect of the pending inquests into the deaths of the following: Patrick Butler, John Dougal, Father Noel Fitzpatrick, Margaret Gargan and David McCafferty. All were shot near the junction of Springhill Avenue and Westrock Drive on 9 July 1972.

I believe you may have been posted to Northern Ireland at the time, in or around the Belfast area. You may have been personally involved in or have been a witness to the circumstances surrounding these deaths/incidents."

7.151 SM108 was then asked about his contact details; whether he was serving in Belfast on 9 July 1972 and his position; whether he provided a witness statement relating to the incidents; whether he was issued with a cipher letter after completing

such a statement (and, if so, what his letter was if he could recall); and if he knew of anyone else who was involved. The letter noted that, even if SM108 was not directly involved, he may be in a position through personal knowledge and recollection to provide some information which would assist the MoD to identify the officers who were in the vicinity and involved in the incident. Any assistance which could be offered would be much appreciated. SM79 also remembered being contacted by the MoD in 2016.

7.152 In March 2024, material arising from the MoD's enquiry in 2016 was provided to the inquest. This was primarily in the form of letters sent by the MoD to 44 identified individuals and 18 written responses. The letters issued are in the same terms as that sent to SM108 by 38 (Irish) Brigade and issued in 2016. The individuals identified by the MoD in 2016 as potentially personally involved in, or as a witness to, the deaths which are the subject of my investigation, or otherwise as a potential witness in this inquest, include: SM8, SM9, SM10, SM13, SM16, SM17, SM57, SM59, SM79, SM92, SM93, SM98, SM100, SM104, SM105, SM106, SM107, SM108, SM111, SM113, SM123, SM126, SM127, SM129, SM165, SM231, SM233, SM238, SM343, SM344, SM345, SM346, CSM Bennett, Kgn Cave, Kgn Gwilliam, Kgn Keating, L/Cpl Dysdale, Lt Filler, and three others.

7.153 Within the 18 responses provided by the MoD, several potential military witnesses confirmed they were stationed in Belfast on the relevant date. SM100 said, in an undated letter, that he was in Belfast on 9 July 1972 and was on duty manning the permanent observation post in Corry's Wood Yard and probably knew everyone who was involved on the army side. SM233, in a letter dated 14 January 2016, advised that, while he could not remember if he was serving in Belfast on 9 July 1972, if he was there he would have been sniper or radio operator. SM92, in an email of 5 August 2016 (sent on his behalf by his wife), stated that he knew C Company was involved but could not name any person after all this time. SM123 confirmed, via a letter dated 23 August 2016, that he was serving in Belfast on 9 July 1972 with 7 Platoon, C Company, 1 Kings. SM107 stated he was a member of C Company "squirrel team" on the relevant date in a letter dated 26 June 2016.

7.154 Though SM108 recalled that he was visited in his home by two men in 2017 who spent several hours asking about the incident and taking notes, no notes of this interview, or any interview, have been provided.

7.155 Stepping back to the beginning of this coronial investigation, on 20 May 2022 the LIU issued a Disclosure Request Letter under paras 21 and 22 of the Presiding Coroner's Case Management Protocol to the CSO as the representatives of the MoD and PSNI. Limited disclosure had been provided some years prior (before the commencement of the then Lord Chief Justice's legacy inquest plan and the allocation of this inquest to a coroner); and my office therefore then requested that "all remaining information of potential relevance to the deaths of Mr Dougan, Mr Butler, Fr Fitzpatrick, Mr McCafferty and Miss Gargan held by your client(s) are disclosed as soon as possible." The letter further requested that, in identifying

remaining information of potential relevance, “all storage systems and archives, including secret systems, are searched”.

7.156 A further, specific, request for assistance was made of the MoD in a letter dated 13 October 2022 regarding “the identification of military personnel in the West Belfast area on 9 July 1972”. At a preliminary hearing on 30 November 2022 the then coroner, His Honour Judge Rafferty, directly requested the assistance of the MoD in identifying soldiers stationed in, or brought into, Corry’s Wood Yard on 9 July 1972 (albeit the request related to soldiers who may have been brought in to support C Company, 1 Kings).

7.157 Despite these repeated and specific requests of the MoD for *all* disclosure and information regarding soldiers who may have been stationed in the area at the relevant time, the MoD failed to disclose both that it had undertaken its own enquiry in 2016 and the product of this, or to provide my office with the names or contact details of individuals it had identified as potentially personally involved in, or a witness to, the deaths or other circumstances which are the subject of this inquest, notwithstanding the MoD’s own averment in the letters that “the MoD has an obligation to assist the Coronial process with disclosure.” The existence of the inquiry and the information gathered during it only came to light when SM108 revealed to my investigator during the course of his interview that he had received a letter from the MoD and been interviewed. I was unimpressed by this, to say the least.

8. EXPERT EVIDENCE

8.01 The inquest received a variety of expert evidence from independent experts duly qualified to give opinion evidence on matters within their expertise. This is summarized in this chapter although, as appropriate, reference is made to the expert evidence elsewhere in this ruling.

Geographical evidence

8.02 Mr Alistair Vannan BA MCIfA, Scientific Lead for Forensic Archaeology at Cellmark Forensic Services, was asked to provide expert evidence in relation to the geography and topography of the area at the time of the deaths in question. Inter alia, he was asked to map the area to include distances; to identify key addresses, buildings or constructions; to plot soldier and civilian positions; to plot where bullets had struck people or surfaces; to plot the location of the two cars mentioned in the evidence; and to provide evidence of the topography of the area and lines of sight. Additional queries raised with him included whether it would be possible for a gunman in the Springmartin area to fire into the Springhill or Westrock area in July 1972; and to indicate how the landscape of the locus had changed since 9 July 1972.

8.03 As the inquest progressed a number of additional matters were referred to Mr Vannan for consideration and comment; and this facility was available to PIPs, through my legal team, where they wished to avail of it. Mr Vannan also answered a number of queries posed by Ms Kiernan in the preparation of her expert evidence.

8.04 Mr Vannan's evidence was given in a number of stages. He used an ArcGIS geographical information system (GIS) incorporating both modern and historical mapping. His work was informed by reference to historical mapping, aerial photographs, historical photographs and details from witness statements. He provided a range of maps and plans which were used by me, my counsel and other counsel instructed on behalf of PIPs in order to better understand the evidence in the inquest and as visual aids for the examination of witnesses. These included a number of basic plans of the area.

8.05 In due course, Mr Vannan provided additional plans or updated his earlier work to include marking locations which had been indicated by civilian witnesses, and later military witnesses, in the course of their evidence. He described this work as the extraction of spatial information from statements and, where possible, the plotting of this as spatial data in a GIS system. This allowed for ready comparison, contrast and correlation of locations identified by witnesses in respect of certain events or occurrences. Mr Vannan supplemented this work with his own commentary on some of the evidence (explaining how and why he had made the additional annotations) and also his own analysis.

8.06 The provision of maps and plans by Mr Vannan, and his general evidence as to the geography and location of relevant sites, was extremely helpful throughout

the course of the inquest. This made the evidence-gathering process both easier and more effective. Some of Mr Vannan's work is reflected in the descriptions of the area and locations relevant to this inquest which are set out in summary in Chapter 3 and elsewhere in the course of the discussion of various evidence which was given. A number of the plans produced by Mr Vannan are also appended to this ruling to assist the reader's understanding at Appendix D.

8.07 A number of PIPs, however, expressed a concern, which I share, about some of Mr Vannan's evidence in the later phases of his work. This concern was that, in some of his analysis of, and commentary upon, witness evidence, and how it did or might fit together, Mr Vannan may have strayed into my own role. It is the coroner's function, when sitting without a jury and as the tribunal of fact, to assess and weigh competing evidence and reach his or her own conclusions on the matters in question within the inquest proceedings. I make no criticism at all of Mr Vannan, whom I consider to have acted in good faith at all times and with the sole purpose of seeking to assist the inquest. In addition, his work could only be properly completed by explaining how and from whom locations or markings plotted on maps and diagrams had come about. This necessarily involved a degree of discussion of the detail of the evidence given in the course of the inquest.

8.08 Nonetheless, in assessing the evidence given by others in the course of the inquest I have borne in mind that any commentary upon their evidence by Mr Vannan (in the course of explaining his own work to assist the inquest in the later phases of his evidence) is merely an expression of non-expert opinion. The conclusions as to both the significance of any similarities or differences in evidence (in relation to locations or otherwise) and the reliability and accuracy of any such evidence are matters exclusively for me. (Indeed, Mr Vannan's own evidence acknowledged that spatial locations from witness accounts were determined by him as accurately as possible but that he had not evaluated the accounts for reliability or veracity as part of his work. He specifically noted that his inclusion of areas of interest, or the positions of individuals or vehicles deriving from information provided in witness accounts, did not endorse the accuracy of those accounts.)

8.09 Landmarks and areas of interest mentioned by witnesses were plotted on Mr Vannan's Figures 1 and 2. In particular, Figure 2 contained the house numbers of dwellings in the Springhill Flats and Westrock Bungalows and the suggested owners or occupiers of various houses as identified from evidence. These maps included indicative locations of areas where, broadly speaking, evidence suggested that the deceased or injured may have been shot. Figures 1a and 2a were essentially the same maps but with those indicative locations removed.

8.10 Mr Vannan's work also included historical landscape reconstruction for the area ranging from the Whiterock Road to the south, the southern end of the Springmartin Road to the north, Glenalina Green to the west and Britton's Lane to the east. This was reflected in a series of maps depicting the area as it is likely to have looked in 1972 (Figures 2b-4). Changes in the landscape between how it was

likely to have appeared around 1972 and its current physical characteristics were also charted and presented on mapping (Figures 5-7).

8.11 As part of Phase 3 of his work, Mr Vannan extracted spatial information from the ciphered statements, from PSNI documents and from military evidence. Looking at the ciphered statements in particular, his evidence was as follows:

“Equating those whom the soldiers reported shooting with the known victims is not a straightforward process, as the soldiers did not provide definitive identifying information, such as the names of those whom they had shot. The soldiers described shooting at armed gunmen, whereas civilian accounts either specifically stated that individuals who had been shot were not carrying weapons, or that they had not seen them carrying weapons, or else they did not address this issue explicitly.

It is not, therefore, known definitively whether the descriptions provided by the soldiers of shooting people in the Westrock area related to the individuals who have been named as having been shot. However, there are similarities in some of the locations and descriptions for shootings provided by the soldiers and those provided by civilian witnesses (Figure 30).”

Pathology, forensics and ballistics evidence

8.12 Each of the deceased was the subject of a postmortem examination either the day after their death or (in the case of John Dougal) the day after that. There is therefore an autopsy report from July 1972 in each case. In addition to that pathology evidence, I instructed Professor Jack Crane MB BCH FRCPath DMJ FFPATHRCPI FFFLM, Consultant Forensic Pathologist and former State Pathologist for Northern Ireland, to review the relevant evidence and provide a modern expert report in relation to each of the deaths.

8.13 Prof Crane was asked to consider the types of weapons/ammunition which caused the injuries to each of the deceased; whether the injuries sustained by each of the deceased were the result of direct strikes, ricochets or fragments of bullets; the relative positions of each of the deceased when they were shot; the direction and trajectory of each shot which struck the deceased; the likely sequence of the shots that hit the deceased; the possibility that Patrick Butler and Fr Fitzpatrick were struck by the same bullet and, if so, in what order; and whether the pathology evidence was consistent with the evidence provided by the witnesses. He provided a report dated 2 April 2024 and gave oral evidence on 19 April 2024.

8.14 There was also some level of forensic examination undertaken after the deaths in 1972 with a variety of materials and swabs being sent to the Department of Industrial and Forensic Science (DIFS) for examination and report. The relevant records were available to the inquest. In addition, the DIFS examinations were considered at a later date by Dr Griffin of Forensic Science Northern Ireland (FSNI), who wrote to the Historical Enquiries Team (HET) in 2007 during its review. That material was also available to me.

8.15 I instructed Ann Kiernan BSc MSc to provide an expert report on firearms issues, including ballistics and gunshot wound ballistics. She provided a detailed report dated 14 April 2024 addressing, inter alia: (a) the position of each of the deceased relative to the person or persons who discharged the shots when the deceased were struck by each of the shots; (b) the position of the person or persons who discharged the shots relative to each of the deceased at the time the shots were discharged; (c) the likely distance between the person or persons who discharged the shots and each of the deceased; (d) the trajectory of each shot which struck each of the deceased; (e) whether the injuries sustained by each of the deceased were the result of direct strikes, ricochets, or fragments of bullets; and (f) the possibility that Patrick Butler and Fr Fitzpatrick were struck by the same bullet.

8.16 Ms Kiernan was also asked to provide any comment she may have on a range of other issues including the existence or otherwise of evidence of shots having been fired in the area of Westrock and Springhill at the relevant time; the possibility of shots fired from the Springmartin estate into New Barnsley estate striking the deceased; the capability and range of the weapons involved in the incident on the part of either the military or otherwise; and the consistency of the ballistics evidence with witness evidence. Ms Kiernan produced a report dated 14 April 2024 and also gave oral evidence on 19 April 2024.

8.17 In addition, the next of kin of Margaret Gargan instructed Jennefer Gray, an expert in the field of forensic chemistry casework to consider the result of the forensic examinations related to Margaret Gargan. Brian Petticrew, a PIP, also instructed Ms Gray to provide a report in relation to lead detected on swabs taken from him at the time. No PIP requested that Ms Gray be called to give oral evidence. They were content that I take her report as read, although subject to their right to make submissions in relation to it.

8.18 Since there was some overlap between the expert disciplines (particularly pathology and ballistics), and a number of experts were asked either to comment on the same issues or on each others' views during the course of questioning, I deal with all of these matters in this section of this ruling. For convenience and ease of understanding, I also summarise the evidence of the experts in respect of each deceased together, that is to say, I address the pathology, forensic and ballistics evidence in respect of each deceased, rather than looking at each discipline entirely separately.

8.19 It is appropriate, however, to set out initially some general conclusions which contained within Prof Crane's and Ms Kiernan's reports and which apply to all of the deceased.

8.20 Prof Crane commented that each of the individuals died as a result of a single gunshot wound, "almost certainly a high velocity round". Ms Kiernan's evidence was that each deceased suffered injuries consistent with the discharge of nominal .30" calibre high velocity weapons on the day of the incident. The 0.30" calibre bullet is loaded into many high velocity cartridges (with the .30" referring to the diameter of the bullet). These included cartridges used in a range of firearms available to the military and also to paramilitaries in Northern Ireland during the early 1970s. The wounds caused by bullets from these high velocity weapons would exhibit similar features and it would not be possible to differentiate between them based on the wound ballistics alone. Based on the information available, it was impossible to determine exactly what type of bullet caused the pertinent wounds.

8.21 However, Ms Kiernan concluded that the wounds to the five fatally wounded individuals were all consistent with having been caused by high velocity bullets. She further concluded that: "The location of the persons that discharged the weapons which struck the deceased cannot be confirmed scientifically." That said, there was "nothing to support the view that shots were fired at close range". For example, there was no sooting or powder-tattooing of the skin reported by any of the reporting pathologists (whose evidence is discussed below).

8.22 Overall, her view was that:

"There is no scientific evidence to indicate who or where the shots were discharged from. It cannot be determined where exactly the person(s) was located or what orientation their body was in when struck as there is simply insufficient information available."

8.23 The ballistics evidence, therefore, is helpful in indicating that the deceased were struck by high velocity bullets but – subject to some of the detail which is discussed below (particularly in relation Fr Fitzpatrick and Mr Butler, and in relation to potential body positions at the time of shooting) – is on its own of very limited assistance in terms of some of the wider questions which arise in these inquest proceedings.

8.24 In answer to questions from Mr Heraghty, Ms Kiernan did comment that all of the injuries to the deceased appeared to be caused by direct shots, with nothing to indicate a ricochet, and that all of the injuries were to the chest or head, which was deemed "centre body mass", i.e. a trunk or head-shot.

8.25 In oral evidence in particular, Ms Kiernan was asked about the type of weapons which could have caused the injury. She considered that an Armalite

could be ruled out. Although it is a high velocity weapon, it uses a .223 calibre bullet which is much smaller and is designed to fragment, resulting in different wound characteristics (a bigger wound internally but a smaller entry wound). Low velocity weapons such as a handgun could also be ruled out. A Thompson sub-machine gun was also ruled out, described as a medium velocity weapon. It used a .45 bullet which was much larger and heavier, so the wounds would therefore have been much larger. However, an M1 Carbine uses a .30 bullet and was a possible cause; as was a Lee Enfield .303; a Mauser or Springfield; a Lewis machine gun; or a Schmeisser rifle.

8.26 Potentially significantly, Ms Kiernan's view was that there was no physical evidence "to support that any of the injured or fatally wounded were in possession of a weapon". Her report included, in its 'Discussion and Conclusions' section, a statement that there was "no evidence" to support that any the injured or fatally wounded were in possession of a weapon. That was clarified and qualified in the course of her oral evidence, to the effect that there was no *physical* evidence to support this. (Ms Kiernan accepted that oral witness evidence, or evidence set out in the ciphered statements, was not a matter on which she was commenting and was a matter for me as coroner. Her point was that there was no scientific evidence supporting the view that any of the deceased was or had been armed (see further paras 8.103 to 8.105 below and the other experts' commentary on the same issue). However, in answer to questions from MOD counsel, Ms Kiernan also accepted that there was no physical or scientific evidence that military weapons had been fired, merely nominal .30 high velocity weapons which could have been military or non-military). In relation to the reporting of lead on the hands of some of the fatally injured, Ms Kiernan's evidence was that this can be explained by the associated gunshot injuries sustained and cannot be scientifically associated with those persons discharging or handling weapons or ammunition.

8.27 Ms Kiernan also provided helpful evidence about the acoustic signature of high velocity rifles. In general, these cannot be distinguished from one another. Also due to the nature of supersonic soundwaves and acoustic echo, the *origin* of a rifle discharge cannot be reliably determined by an ear witness, particularly in an urban area where the sound will echo off buildings. In particular, shots from a high velocity nominal .30 calibre weapon would all sound very similar, such that one cannot differentiate between a military rifle and another weapon of the same calibre. Further, the supersonic boom can be misinterpreted as the origin of the shot (whereas it is actually the passage of the bullet). In her oral evidence, however, Ms Kiernan tempered this evidence somewhat. In the event that one was in an elevated position (such as Corry's Wood Yard), there would not be the same echoing as if the shot was discharged from lower ground. A trained individual, used to hearing gunshots, may be able to define a generalized area of where the origin of the shots came from. However, the clear impression that I gained from Ms Kiernan's evidence was that witnesses who were untrained and/or who were at ground level could not reliably discern the origin of high velocity shots from hearing alone.

8.28 Ms Kiernan also indicated that she had reviewed Prof Crane's report and had nothing to add to his reported findings.

John Dougal

John Dougal – original autopsy

8.29 John Press MB BCh DMJ, the Assistant State Pathologist, made a postmortem examination of the body of John Dougal at the mortuary at the Royal Victoria Hospital at 12.30 pm on 11 July 1972, the body having been identified to him by DS McBurney. During the course of the examination photographs of the body were taken. The report of the autopsy prepared by Dr Press and copies of the photographs were both available to me.

8.30 The report notes that the following clothing was removed from the body: a blue shirt; a pink T-shirt; a pair of blue jeans; a pair of pink underpants; a pair of grey patterned socks; and a pair of black, leather zip-up boots.

8.31 John Dougal was described on external examination as a young man of average build weighing about 10 stone and 67 inches in height. There was an entrance gunshot wound on the right side of his back, centred 4cm to the right of the midline and 15cm above the level of the iliac crest. It was 45 inches above the soles of the feet. The gunshot entrance wound was a round hole, 5mm in diameter, with an arc of abrasion up to 5mm broad around its lower margin. There was a gunshot exit wound on the front of the chest centred 5cm to the right of the upper end of the sternum. It was an oval hole 5 x 3½cm with its long axis downwards and to the left. Its margins were slightly ragged and it was surrounded by a zone of abrasion 1-3mm broad. Dr Press said that the bullet had passed forwards with an inclination of about 50° to the horizontal plane but with no deviation to the right or left.

8.32 The pathologist said that John Dougal was healthy with no natural disease to cause or accelerate death. There was no alcohol in the body at the time of death. His opinion was expressed in the following terms:

“Death was due to a gunshot wound of the chest. A bullet had entered the right side of the back of the chest, had passed through the right lung and cartilage of the second right rib before leaving through the front of the chest just below the collar bone. The injury to the lung caused his death.

The injuries were of a type caused by a bullet of high velocity. There was nothing to indicate that it had been fired at close range.

If he were erect at the time the weapon was fired then the bullet must have come from directly behind him and with an inclination upwards of about 50°."

8.33 The cause of death was given as "(a) laceration of right lung due to (b) gunshot wound of chest".

John Dougal – modern pathology report

8.34 Prof Crane agreed that John Dougal was healthy and that there was no natural disease to cause or accelerate the death. He agreed that death was due to a bullet wound of the chest, having been hit by a single bullet which struck Mr Dougal on the right side of the back of the lower chest and had passed forwards and upwards through the chest lacerating the right lung (before making its exit on the front of the upper chest just below the inner end of the right collar bone). External bleeding and bleeding into the right chest cavity would have caused his rapid but not immediate death. In oral evidence, Prof Crane suggested that this might have been "a period of minutes".

8.35 Prof Crane said John Dougal would appear to have been struck by an intact high velocity round. The appearances of the entrance wound indicated a direct hit and not a ricochet. There was nothing to indicate that John Dougal had been shot at close range but examination of his clothing would be required to confirm or refute this.

8.36 The direction of the shot and track of the bullet indicated to Prof Crane that John Dougal was facing away from the shooter when shot, i.e. the back of Mr Dougal must have been presented to the shooter. In answer to a question from Ms Doherty, Prof Crane agreed that Mr Dougal had been "shot in the back". The bullet track was directed upwards at an inclination of 50° to the horizontal plane. As appears above, it had been suggested by Dr Press that if he was erect at the time the weapon was fired, then the bullet must have come from directly behind him with an inclination upwards of about 50°. It was Prof Crane's view, however, that he could not have been standing upright when shot because of the sharp, steep degree of the inclination. Instead, he was of the opinion that John Dougal must have been bending forwards, kneeling or crouching with his back to the shooter when struck by the bullet. He considered that this scenario was even more likely if the shooter was located in an elevated position with regard to the deceased.

8.37 When asked by Mr Aiken whether it would be normal for a pathologist to posit a theory ("if he were erect") when this was impossible, Prof Crane accepted this would not be normal; however, he emphasized the paucity of information, described as "very sketchy information", which the pathologist would have had at that time as to the circumstances. He also later accepted (in answer to a question from Ms Doherty) that a pathologist would often give an opinion on that type of issue by reference to the normal anatomical position (i.e. standing upright). He accepted that

Mr Dougal could have been erect if he was in an elevated position with respect to the shooter, i.e. at a higher level, and the topography allowed for that. (This would also depend upon how far away the shooter was, since that would affect the angle.) If not, he considered that Mr Dougal had to be bent forwards.

John Dougal – ballistics evidence

8.38 Ms Kiernan considered the wounds described by Dr Press in the postmortem report to be consistent with the images taken at postmortem. The bullet to the back was consistent with the path of a stable bullet travelling nose front as it struck his body. She considered there was nothing to indicate that this was a ricochet shot or that a bullet had struck or passed through another individual before striking him based on the wound ballistics. Ms Kiernan agreed with Dr Press's opinion in relation to the path of the bullet through the body.

8.39 However, an alternative explanation for the injury which she offered was if John Dougal was leaning forward, bent at the waist, with his lower back presented to the shooter and the shot being fired from above and behind him. She considered this to be a more plausible explanation than the assumption that he was erect at the time the weapon was fired (with an upwards inclination of 50°).

8.40 This was explored with Ms Kiernan further in questioning by Ms Doherty. Taking into consideration the length of a high velocity weapon (around 44 inches), the entry wound being 45 inches above the soles of the feet, and accounting for the angle of 50°, there would only be a very short distance from ground level to the entry wound. With a weapon of that length, it would then be positioned "almost next to the body". This was a matter of trigonometry. In other words, for Mr Dougal to have been standing upright, the shooter would have to have been at a position lower than him but also extremely close to him. If the bullet had been discharged within 5-6m of Mr Dougal, it would have been in a state of yaw ("almost like wobbly"), not having reached a state of stable flight. In that instance, there would not be a neat, circular entrance wound, such as there was here. The entrance wound in this case did not support a shot fired from a short distance away.

John Dougal – forensic examination evidence

8.41 The clothing of John Dougal was examined and a report produced by John Martin, Forensic Scientist, on 10 January 1973. He reported that nothing of evidential value was noted in the examination of the clothing. He also reported that no lead was detected on swabs taken from Mr Dougal during the postmortem examination. However, one speck was recorded as being positive for lead on the swab taken from the right hand. The report also states that all the swabs were dirty.

8.42 Ms Kiernan commented that the forensic case file did not contain any examination notes pertaining to Mr Dougal's clothing. Based on the wound

ballistics, she would have expected to have had evidence of gunshot damage to the back of his garments (the shirt and pink vest) with corresponding damage to the front to align with the gunshot wounds reported by Dr Press.

8.43 She also commented that a single speck of lead was found on the swab from his right hand. As addressed elsewhere in her evidence, the test used by DIFS was only lead-specific. The particle could therefore have originated from a firearm or from a non-firearms source.

Father Fitzpatrick

Fr Fitzpatrick – original autopsy

8.44 Dr Thomas Marshall MD FRCPATH, the State Pathologist for Northern Ireland, made a postmortem examination of the body of Fr Fitzpatrick at the mortuary at Laganbank Road, Belfast at 12.45 pm on 10 July 1972, the body having been identified to him by DS McBurney. During the course of the examination photographs of the body were taken. The report of the autopsy prepared by Dr Marshall and copies of the photographs were both available to me.

8.45 The report notes that the following clothing was removed from the body: a black suit jacket; a clerical collar and stock; a pink T-shirt; a white cotton vest; black suit trousers, zipped at the front and clipped at the waist; white cotton trunks; light blue socks; and a religious medal on a chain around the neck.

8.46 Fr Fitzpatrick was described on external examination as a middle-aged man of average build measuring 5 foot, 7½ inches in height. There was a bullet entrance wound over the prominence of the left cheek 62 inches above the soles of the feet. It was 2½ cm to the left of, and 2½cm above, the left angle of the mouth. It was a hole, 5mm in diameter, surrounded by a zone of dark-red abrasion which was 2mm broad (between the four o'clock and ten o'clock positions) and 4mm broad around the rest of the wound. There was some radial splitting of the margins through the broader part of the abrasion. The base was formed by soft tissue. When a probe was inserted, it extended to the right with a declination of 10° and a deviation backwards of 45°.

8.47 The probe emerged at a large exit wound on the right side of the neck 60 inches above the soles of the feet. It was 3cm below, and 4cm behind, the outer opening of the right ear. It was a square-shaped hole with sides about 2½cm long. There was a little eversion of the tissues of the margins which also contained some splits, the largest 15mm long and extending vertically upwards from the upper anterior corner of the hole. Between this corner and the pinna of the ear, an area overlying the mastoid process, the skin was bruised and bore some stretch abrasions.

8.48 The pathologist said that Fr Fitzpatrick was healthy and there was no natural disease to cause or accelerate death. There was no alcohol in the body at the time of death. His opinion was expressed in the following terms:

“Death was due to a bullet wound of the neck. A bullet had struck the centre of the left cheek and had passed through the mouth to emerge on the right side of the neck just below the ear. It had shot away the molar teeth on the left side of the mouth and the gold crown of one of the teeth was found in the exit wound. The bullet had lacerated the right side of the back of the tongue, shot away the right side of the first cervical vertebra, fracturing the second vertebra also and bruised the spinal cord. The injury to the spine and the cervical cord caused his death.

The wounds were made by a high velocity bullet. Its track through the face and neck was from left to right with a declination of 10° and a deviation backwards of 45°.

The autopsy also revealed some abrasions at the centre of the forehead. They were trivial and were probably caused when he collapsed.”

8.49 The cause of death was given as “bullet wound of neck”.

Fr Fitzpatrick – modern pathology report

8.50 Prof Crane agreed that Fr Fitzpatrick was healthy and there was no natural disease to cause or accelerate death. Death was due to a bullet wound of the neck, having been hit by a single bullet. The bullet had struck him on the left side of his face and gone backwards, and slightly downwards, to emerge at a large exit wound on the right side of the neck behind the right ear. It had gone through the bony spine in the neck which was badly fractured. The injury to the spine and spinal cord would have caused collapse and fairly rapid death.

8.51 Prof Crane said that Fr Fitzpatrick would appear to have been struck by an intact high velocity round, some small fragments of which had broken off after striking the bony spine. The appearances of the entrance wound indicated a direct hit and not a ricochet. From his consideration of the records, Prof Crane concluded that, when shot, Fr Fitzpatrick had been wearing his clerical clothes. There was nothing from the appearances of the entrance wound to indicate a close-range discharge.

8.52 The location of the entrance wound on the left cheek would suggest that Fr Fitzpatrick had been facing the shooter when the bullet struck him. Its tracks through the face and neck, with a slight declination of 10°, would be consistent with

his having been upright and the shooter facing him at an elevated position. In oral evidence, Prof Crane accepted that Fr Fitzpatrick could have been kneeling down but with the upper part of his body still in an upright position. The track was directed backwards of 45° but this deviation could be explained by movement of the head. In his oral evidence, Prof Crane also made clear again that, because of the range of movements of one's head, he could not say definitively whether the shooter was to the left, in front of, or to the right of Fr Fitzpatrick; simply that his head must have been directed towards the shooter in some way or other when he was shot.

Fr Fitzpatrick – ballistics evidence

8.53 Ms Kiernan again considered the wounds described by Dr Marshall to be consistent with the images taken at postmortem. She said that the bullet wound to the left cheek was consistent with the path of a stable bullet travelling nose front as it struck the cheek of Fr Fitzpatrick. She said that a high velocity bullet had struck the centre of the left cheek and had passed through the mouth to emerge on the right side of the neck, with the path of the bullet being front to back, left to right, with a slight declination of 10°.

8.54 Ms Kiernan further opined that, if Fr Fitzpatrick was upright with the left side of his face presented or turned to the shooter, the shot was fired from in front of him and from his left, with a slight downward left-to-right trajectory. The larger exit wound was expected from a high velocity bullet which had been destabilized when passing through the body tissue and also possibly associated with the exit of disrupted teeth from Fr Fitzpatrick's mouth.

Fr Fitzpatrick – forensic examination evidence

8.55 The clothing of Fr Fitzpatrick was examined and a report produced by John Martin, Forensic Scientist, dated 11 January 1973. There was no gunshot damage recorded within the case file notes of the clothing examination. The notes from the time, showing examination of the clothes on 20 July 1972, record some blood staining on various items of clothing, including some blood staining on the collar and stock, around the collar of the black suit jacket and significant blood staining on the pink t-shirt and white vest worn underneath, mostly on the back of these. Swabs taken from the body during the postmortem were also examined for the presence of lead and no lead was found.

Patrick Butler

Patrick Butler – original autopsy

8.56 Dr Marshall, the State Pathologist, also made a postmortem examination of the body of Patrick Butler at the mortuary at Laganbank Road, Belfast at 4.00 pm on 10 July 1972, the body having been identified to him by DS McBurney. During the course of the examination photographs of the body were taken. The report of the

autopsy prepared by Dr Marshall and copies of the photographs were both available to me.

8.57 The report notes that the following clothing was removed from the body: a blue T-shirt; a white vest; dark suit trousers, zipped at the front and clipped at the waist; white cotton trunks; a pair of light grey socks; and a pair of black shoes.

8.58 Mr Butler was described on external examination as a middle-aged man of average build measuring 5 foot, 3 inches in height. There was a bullet entrance wound on the right side of the back of the head, 56½ inches above the soles of the feet. It was 8cm behind, and 2½cm below, the outer opening of the right ear. It was a semi-circular hole, 15mm long, the concavity facing upwards and to the right. It was not associated with abrasion, bruising or discharge soiling. When a probe was inserted, it extended forwards through the head with an inclination of 20° and a deviation to the left of 30°.

8.59 The probe emerged at a large exit wound centred over the left eye 58½ inches above the soles of the feet. It was a hole, 5½ x 3cm, occupying the whole of the orbit. Between the one o'clock and six o'clock positions there were seven radial lacerations of the margin varying from 5-17mm in length. The wound gave direct access to the interior of the cranium.

8.60 The pathologist said that Patrick Butler was healthy and there was no natural disease to cause or accelerate death. There was a small amount of alcohol in his body at the time of death, 52mgs per 100ml in the urine. His opinion was expressed in the following terms:

“Death was due to a single bullet wound of the head. The bullet had struck the back of the head on the right side and had made its exit through the left orbit where there was a large wound devoid of an eyeball.

The track of the bullet through the head was from back to front with an inclination of 20° and a deviation to the left of 30°. It had extensively fractured the base of the skull and lacerated the brain stem, hind brain and the lower parts of the cerebral hemispheres. Death would have been immediate.

The autopsy also revealed two abrasions to the left forehead, an abrasion on the upper left lip and another on the front of the neck. These injuries were probably caused when he collapsed. They were trivial and played no part in his death.”

8.61 The cause of death was given as “bullet wound of head”.

Patrick Butler – modern pathology report

8.62 Prof Crane agreed that Patrick Butler had been healthy and there was no natural disease to cause or accelerate death. Death was due to a bullet wound of the head, having been hit by a single bullet, or possibly part of a bullet. This had struck the right side of the back of the head where there was a somewhat atypical entrance wound. The missile had passed forwards through the head fracturing the skull and lacerating the brain to emerge from a large wound occupying most of the left eye socket. Death would have been almost immediate.

8.63 The entrance wound in the back of the head was atypical in shape and not bordered by a zone of abrasion, raising the possibility that Mr Butler was struck by a deformed bullet or a large bullet fragment. Prof Crane commented that it was thought that Patrick Butler had been standing beside Fr Fitzpatrick and, if this was the case and he was standing to Fr Fitzpatrick's right, then the bullet which exited from the wound behind Fr Fitzpatrick's right ear and which was travelling with a slight declination could have then struck Patrick Butler on the back of his head. In his oral evidence, Prof Crane was more supportive of this suggestion, indicating that he thought there was "a very distinct possibility that [Mr Butler] was struck by the bullet that had initially gone through Fr Fitzpatrick", adding that he thought this was a "a probable, or certainly a possible explanation because the entrance would be atypical in shape". In answer to a question from Mr Aiken, Prof Crane agreed that, in this circumstance, each man's head cannot have been "in the same direction"; rather, he thought they would have to be turned in a slightly different direction. In answer to a question from Mr McIlroy, Prof Crane agreed that the difference in height between the two men (with Mr Butler being around 4 inches shorter than Fr Fitzpatrick) could explain the slightly downward direction, and was not inconsistent, with the same bullet having struck both of them.

8.64 Prof Crane left open the possibility that Mr Butler could have been hit by a damaged or deformed bullet that had gone through Fr Fitzpatrick or, indeed, another bullet from another source which had struck an intermediate target before striking Mr Butler.

8.65 Although the missile had travelled very slightly upwards through Mr Butler's head, this could be explained if his head was bent forward. There was again no indication of a close range if this was a direct hit. Prof Crane said that it seemed likely that Mr Butler was probably standing upright when shot.

Patrick Butler – ballistics evidence

8.66 Ms Kiernan again considered that the wounds described by Dr Marshall in the initial autopsy report were consistent with the images taken at postmortem. The bullet had struck the back of the head on the right side and had made its exit through the left orbit. The track of the bullet through the head was from back to front with an inclination of 20° and a deviation to the left of 30°.

8.67 She observed that the bullet wound to the back of Mr Butler's head was somewhat irregular and possibly associated with a fragment or a destabilized bullet. The wound characteristics described were consistent with the energy of a high velocity bullet or fragment. Also, the irregularity of the wound could be explained if the bullet struck and perforated the back of the head tangentially.

8.68 In respect of the suggestion in some of the civilian evidence that the same bullet struck Fr Fitzpatrick and then exited and subsequently struck Patrick Butler, Ms Kiernan considered that this was possible. The entrance wound to the back of Patrick Butler's head was irregular. This scenario was possible if the right side of Patrick Butler's head was aligned to the right of Fr Fitzpatrick. Alternatively, the wounds could have been caused by different bullets. However, Ms Kiernan's view was that the associated height of the exit wound to Fr Fitzpatrick and the entrance wound to Patrick Butler was in alignment. In her oral evidence, she also explained that the 7.62mm x 51mm bullet does not tend to fragment, as one might expect from a smaller or different calibre bullet. She considered that metallic fragments that had been identified in x-ray of Fr Fitzpatrick could be consistent with a dental filling, noting that the original pathologist described the disrupted molar as a gold filling.

Patrick Butler – forensic examination evidence

8.69 The clothing of Patrick Butler was examined and a report produced by John Martin, Forensic Scientist, dated 11 January 1973. Within this report Mr Martin stated that swabs taken from the body during the postmortem were examined for the presence of lead, and no lead was found. Mr Martin also noted that nothing of evidential value was noted during the examination of the clothing. The notes from the time, showing examination of the clothes on 1 August 1972, record blood staining on Mr Butler's t-shirt, including heavy blood staining on the back, as well as significant blood staining on the back of his vest.

8.70 Ms Kiernan reviewed the original case examination notes pertaining to the upper clothing of Patrick Butler (a blue T-shirt and sleeveless inner vest). The items were blood-stained. Two holes were found to the back of the T-shirt. One to the lower back, almost at the bottom edge, tested positive for lead. A second small hole just below the back collar tested negative for lead. There was nothing recorded to indicate that the area which tested positive for lead was related to gunshot damage.

David McCafferty

David McCafferty – original autopsy report

8.71 Dr Derek Carson TD MD, the Deputy State Pathologist for Northern Ireland, made a postmortem examination of the body of David McCafferty at the mortuary at the Royal Victoria Hospital at 3.20 pm on 10 July 1972, the body having been identified to him by DS Fyfe. During the course of the examination photographs of

the body were taken. The report of the autopsy prepared by Mr Carson and copies of the photographs were both available to me.

8.72 The report notes that the following clothing was removed from the body: a black anorak; a black long-sleeved sweater; a blue and grey patterned shirt; a key on elastic band from around the left wrist; a pair of very soiled boots; a pair of black trousers, with a black belt around the waist; a pair of blue underpants; and a pair of black socks.

8.73 David McCafferty was described as a boy of average build, measuring 5 foot, 2 inches in height. An oval gunshot entrance wound was present on the back, 6mm x 5mm, on the left side situated 24 cm below the top of the shoulder, 7cm from the midline and 17cm above the iliac crest. It was surrounded by a rim of reddish abrasion, 2-3mm wide and widest at its upper left margin. There was an irregular bullet exit wound on the chest, 5½cm x 4½cm, on the right side in the mid axillary line. Its upper limit was 10cm below the fold of the armpit. Bordering its upper margin there was an irregular area of reddish abrasion, 2cm x 1cm, and the entire wound was enclosed within an area of vague bruising 8cm in diameter. The line connecting the entrance and exit wounds on the trunk passed from left to right, very slightly upwards and from back to front at about 25° to the coronal plane.

8.74 On Mr McCafferty's right upper limb there was an irregular lacerated wound, 7cm x 6½cm, on the inner side of the upper arm, adjacent to that on the right chest with the upper arm by the side. There was also an irregular lacerated wound, 5½cm x 4½cm, on the outer side of the upper arm at the same level as the wound on the inner side. The wounds were associated with comminution of the middle third of the humerus.

8.75 The pathologist said that David McCafferty was of average build for his years and measured 5 foot, 2 inches in height. He was healthy and there was no natural disease to cause or accelerate death or to cause collapse. He had previously had an operation at the left groin, probably for a hernia, but this was merely an incidental finding. There was no alcohol in the body at the time of death. His opinion was expressed in the following terms:

“Death was due to a gunshot wound of the chest. The bullet, apparently of high velocity type, had entered the left side of the back and had passed through the body with a direction from back to front, very slightly upwards, and from left to right at about 25 to the coronal plane. It had left the right side of the chest 4 inches below and in line with the centre of the armpit and had then passed through the right arm, fracturing the humerus.

In its course through the trunk the bullet had lacerated the diaphragm, liver and right lung, and had passed through

the spine and the ninth right rib, also fracturing the tenth left rib.

The internal bleeding associated with the injuries of the right lung and liver would have caused fairly rapid, though not instantaneous death.

Assuming that the deceased was erect and facing forward at the time when struck, the bullet must have been fired from behind him and to his left, and from a slightly lower level.

A bruise on the right side of the forehead was probably sustained when he collapsed. It could have played no part in his death."

8.76 The cause of death was given as "(a) laceration of right lung and liver due to (b) gunshot (high velocity weapon) wound of trunk".

David McCafferty – modern pathology report

8.77 Prof Crane agreed that David McCafferty was healthy and there was no natural disease to cause or accelerate death. Death was due to a bullet wound of the chest, having been hit by a single bullet. The bullet had struck him on the back of the lower chest overlying the tenth left rib and had gone from left to right, and slightly upwards across the chest, to emerge at a fairly large exit on the right side of the chest below the armpit. It had then gone through the right upper arm, fracturing the upper arm bone (the humerus). Internally, it had lacerated the liver and right lung and gone through the bony spine. Death was as a result of bleeding, both internally and externally, and would have caused Mr McCafferty's rapid but not immediate death.

8.78 David McCafferty appeared to have been struck by an intact high velocity round. The appearances of the entrance wound indicated a direct hit and not a ricochet. There was nothing from the appearances of the entrance wound to suggest that David McCafferty had been shot at close range but examination of the clothing he was wearing at the time would be required to confirm or refute this.

8.79 Prof Crane considered that David McCafferty must have been facing away from the shooter when struck by the bullet; but it seemed very unlikely that he would have been standing erect at this time. It was more likely that he was bent forwards, possibly running in a "head down" position when shot. This would explain the low position of the entrance wound and the slight upward inclination of the bullet through his body. In answer to questions from Mr Heraghty, Prof Crane agreed that Mr McCafferty was "shot in the back"; and that the wound pathology could be explained if Mr McCafferty was shot from behind, leaning down whilst

trying to move the body of Fr Fitzpatrick. In oral evidence, Prof Crane also explained that the wound on the inner side of the arm, adjacent to that on the right chest with the upper arm by the side of the trunk, indicated that David McCafferty's right arm was at his side when shot.

David McCafferty – ballistics evidence

8.80 Ms Kiernan considered that the wounds described by Dr Carson in the original autopsy report were consistent with the postmortem images. The bullet wound to David McCafferty's back was consistent with the path of a single, stable bullet travelling nose front as it struck his body to the left back of his chest. She further agreed with Dr Carson's opinion of the path through the body. The bullet transversed from left to right through the chest cavity, where it exited and entered his right arm, to exit on the outer right of the arm. It had a slight upward trajectory.

8.81 However, Ms Kiernan explained that an alternative explanation for the injury was if David McCafferty was leaning forward, bent at the waist, with his back to the shooter and was struck by a shot that was fired from above, and behind him, to his left. She considered this to be a more plausible explanation than Dr Carson's assumption that David McCafferty had been erect (with the shot fired from behind him, to his left and from a slightly lower level). Again, she considered that there was nothing to indicate that this was a ricochet shot or that a bullet had struck or passed through another individual before striking David McCafferty based on the wound characteristics.

David McCafferty – forensic examination evidence

8.82 The clothing of David McCafferty was examined by NIFSL and a report was produced by John Martin, Forensic Scientist, dated 11 January 1973. Damage consistent with the passage of a bullet was found in the pullover and underlying shirt worn by Mr McCafferty when he was shot. The damage corresponded to the wounds described by Dr Carson. The notes from the time, showing examination of the clothes on 27 July 1972, record blood staining mostly to the front and right arm of Mr McCafferty's anorak and significant blood staining of the pullover and shirt. Mr Martin had reported that nothing of evidential value was noted in the examination of the clothing. He also reported on swabs taken from Mr McCafferty during the postmortem examination and no lead was detected on these.

Margaret Gargan

Margaret Gargan - original autopsy

8.83 Dr Marshall also made a postmortem examination of the body of Margaret Gargan at the mortuary at Laganbank Road, Belfast, at 6.15 pm on 10 July 1972, the body having been identified to him by DS McBurney. During the course of the

examination photographs of the body were taken. The report of the autopsy prepared by Dr Marshall and copies of the photographs were both available to me.

8.84 The report notes that the following clothing was removed from the body: a blue anorak, zipped up the front; a pink jumper; a mustard-coloured sports shirt; a white vest; fawn corduroy trousers, zipped at the front; white tights; and white cotton pants. A plastic shoe also accompanied the body.

8.85 Margaret Gargan was described on external examination as a young woman of average build, measuring 5 foot, 4 inches in height. There was an entrance bullet wound on the right cheek 5 $\frac{1}{2}$ inches above the soles of the feet. It was 17mm above the right angle of the mouth. It was a hole, 3mm diameter, bordered by a dark-red zone of bruising and abrasion, through which there was some radial splitting. When a probe was inserted, it extended backwards through the face in the direction of an exit bullet wound. This wound was a ragged laceration, 11 cm long, extending vertically up the back of the head, its lower end 4cm below the level of the outer opening of the ears. It gaped by 2 $\frac{1}{2}$ cm and exposed the fractured occiput.

8.86 The pathologist said that Margaret Gargan was healthy and there was no natural disease to cause or accelerate death. There was no alcohol in the body at the time of death. His opinion was expressed in the following terms:

“Death was due to a single bullet wound of the head. The bullet had struck the right cheek just above the right angle of the mouth and had made its exit at the centre of the back of the head where there was a gaping vertical wound just over four inches long. It had fractured the right cheek bone, the right side of the base of the skull and the back of the skull. It had lacerated the right side of the tongue, the lower part of the cerebral hemispheres of the brain, the hind brain and the brain stem. Death would have been immediate.

There were no other injuries.”

8.87 The cause of death was given as “bullet wound of head”.

Margaret Gargan – modern pathology report

8.88 In his report, Prof Crane concurred that Margaret Gargan’s death was due to a bullet wound of the head. He commented that Margaret had been struck on the right side of the face by a single bullet which fractured the underlying cheek bone and had passed directly backwards to exit from a large, lacerated wound on the back of the scalp. The vault and base of the skull were fractured and the brain badly lacerated. Prof Crane concluded, as had Dr Marshall, that death would have been immediate.

8.89 The entrance wound was typical of that associated with an intact, undamaged bullet and was not a ricochet. The severity of the internal head injury would be consistent with a high velocity round. There was no evidence of a close-range discharge. The bullet had gone directly backwards through the head from her face to the back of the scalp. It would be consistent with her being upright and facing the shooter, albeit that movement of the head would allow her to be in other possible positions. In his evidence, Prof Crane commented that, as the exit wound was a large laceration and so it was difficult to determine exactly where the bullet made its exit, it was not possible to say whether the bullet travelled in a slightly upwards or downwards trajectory. He considered the path of the bullet was probably fairly horizontal.

Margaret Gargan – ballistics evidence

8.90 In her report Ms Kiernan agreed with Dr Marshall's findings. Having reviewed the postmortem photographs, she considered the wounds described by Dr Marshall to be consistent with the images taken. Ms Kiernan considered the bullet wound to be consistent with the path of "a stable bullet travelling nose front as it struck the right cheek of Margaret Gargan". She commented that, "The bullet path through the head, appears to be from front to back, with a slight right to left trajectory, and horizontal. The characteristic nature of the exit wound is consistent with a tumbling bullet causing the large gaping exit wound."

8.91 During her oral evidence, Mr Aiken questioned Ms Kiernan about her conclusion that the bullet path was horizontal, pointing out that elsewhere within her report she referred to the soldiers within Corry's Yard being in an *elevated* position. Mr Aiken suggested that would indicate a downwards angle in those circumstances (if Margaret Gargan had been shot by a soldier at an observation post within the yard). Ms Kiernan confirmed that the horizontal description refers to the bullet path. The exit wound was a large laceration, consistent with a bullet tumbling. Taking the path from the centre of the large laceration, it appeared horizontal. However, Ms Kiernan echoed Prof Crane's caution in seeking to attribute a particular angle to the origin of a shot to the head given the range of movement of the head and of the upper body. Ms Kiernan concluded that it could not be ascertained what position or orientation Margaret's head had been in when struck by the bullet, due to the various possible positions and movements of the head.

8.92 With regard to the question of whether this had been a direct strike or a ricochet, Ms Kiernan expressed the opinion that "the bullet wound is consistent with a stable bullet, travelling nose front" and that there was "no evidence to indicate that this was caused by a bullet that ricocheted off an intermediate object." Ms Kiernan also considered the wound characteristics to be consistent with those caused by a high velocity bullet.

8.93 Regarding the position of the shooter, Ms Kiernan considered that it could not be ascertained at what sort of distance the shot could have been fired from, though she stated that there was nothing to support the view that a shot was fired at close range, noting the absence of soot or powder tattooing. Civilian witness evidence placed Margaret Gargan at the bottom of the garden path of 8 Westrock Gardens when she was shot. As with the other deceased, Ms Kiernan considered that it was not possible (by gunshot wound ballistics) to identify the origin of the shot which caused the injury to Margaret Gargan. However, she concluded that shooters positioned in elevated positions within Corry's Yard appear to have had a direct line of sight to the path and/or roadway outside 8 Westrock Gardens. She considered that, "Shots fired from soldiers positioned anywhere within Corry's yard, directed down Westrock Gardens could have caused the fatal wound to Ms Gargan."

8.94 Ms Kiernan considered that the topography of the landscape supported her opinion that "anyone within Corry's yard, in an elevated position above the height of the perimeter fence could see over the bungalow constructed houses down into Corrigan Park, thus shooters would be firing down to a lower level. In addition, anyone within Corrigan Park, looking towards Corry's yard, would be looking up, and if firing, would be firing over the bungalow construction to individuals positioned within the woodyard." During questioning, Ms Quinlivan put it to Ms Kiernan that, if the evidence of civilian witnesses describing Margaret as facing Corry's Yard at the time she was shot was correct, then that would suggest the shooter shot from Corry's Yard. Ms Kiernan answered, "Yes".

8.95 Inter alia, Ms Kiernan was referred to the intelligence document suggesting that an individual fired a gun from a location on the Springmartin Road to the New Barnsley area, as a result of which the individual believed that they had killed a 13 year old girl. Though noting that the landscape has changed in the intervening years, Ms Kiernan stated that the topography of the landscape from Springmartin dips down before rising again and, therefore, there is no direct line of sight from Springmartin into Westrock Gardens. In her oral evidence, she mentioned that she had also consulted with Mr Murphy in this regard, the engineer with whom she cooperated in the Ballymurphy Inquest.

8.96 In her report, Ms Kiernan drew attention to the evidence of Elizabeth Meenan who described conversing with Margaret when she heard a "crack" and "whizzing sound" and seeing "sparks", before seeing Margaret Gargan lying on the ground. Ms Kiernan considered the description given by Ms Meenan to be consistent with a high velocity shot, suggesting that "the sparks may indicate that the bullet subsequently struck a hard [object], after exiting Ms Gargan (as the wound ballistics do not support an unstable bullet striking Ms Gargan). A bullet having passed through an individual and subsequently striking another surface may result in fragmentation, which could explain the presence of the lead on the clothing of Ms Gargan."

8.97 Ms Kiernan was asked about Ms Meenan's description in her oral evidence. She explained that where a bullet is still in supersonic mode, i.e. above the level of sound, if it passes over the head of an individual, then one will hear a 'crack' and can also hear the whizz of the bullet as it is passing through the air. Ms Quinlivan asked if Ms Meenan's description was consistent with her having been present when a bullet passed overhead. Ms Kiernan confirmed if the bullet passed an individual, either overhead or to the side, they would be exposed to the supersonic crack. Otherwise, they would only hear the discharge.

8.98 Ms Kiernan was also questioned about witnesses' description of seeing a "flash". In particular, she was asked whether someone looking at where a shot came from could see and discern a muzzle flash. Ms Kiernan confirmed that they could. She was then asked whether the description by an eyewitness who claimed to have witnessed a flash would be consistent with them having observed a shot being fired from the location where they identify the flash. Ms Kiernan confirmed that it was.

Margaret Gargan - forensic examination evidence

8.99 At the outset of his autopsy report in relation to Margaret Gargan, Dr Marshall recorded the clothing which was removed from the body (see para 8.84 above). These items, together with a blood sample and swabs of Margaret's right hand, left hand and the sides of her chin and neck taken on 9 July 1972, were examined by DIFS.

8.100 The DIFS examination report recorded the following results. Nothing of significance was noted in the examination of clothing; no alcohol was detected in the blood sample; a lead speck was detected on the swab from the left hand; and no lead was detected on the other swabs. It is recorded in the DIFS examination notes that most of the swabs, including that from the left palm, were "very dirty". No items were available for subsequent re-examination.

8.101 The DIFS examinations were considered by Dr Griffin in the course of the HET review in 2007. In correspondence Dr Griffin referred to lead residues (a large speck and smearing) which were detected on Ms Gargan's jacket and on the swabs from the left palm. She noted that the swabs had been described as dirty and commented that it was unclear if this was from the fragmentation of bullets. She noted that lead tests by themselves would only be used as a presumptive or indicative test of somebody having fired a weapon. A positive reaction finding lead specks was indicative of a gun being fired, although not conclusive. It is not entirely clear whether Dr Griffin was saying that the presence of lead specks merely indicates that *a gun* was fired (*viz* this simply corresponds with Margaret Gargan having sustained gunshot injuries) or indicates that Margaret Gargan may have fired a gun. The former interpretation appears to be the more natural reading of the observation in its context. Dr Griffin goes on to note that the finding of smears may be indicative of handling a lead object. However, she cautioned that the presence of any lead residues must be interpreted in conjunction with all other available information.

8.102 Prof Crane commented on this issue in the following respect. He said that it was noted that traces of lead were detected on Margaret Gargan's jacket and swabs from the palmar surface of the left hand. Whilst lead may be detected on the hands of an individual who has fired a weapon, the test is non-specific; and he considered that it was possible that the lead residue on her left hand had come from the jacket she was wearing if her hand was in contact with the garment.

8.103 Ms Kiernan was asked to comment upon the forensic examinations in her report. She noted that the swabs were only examined for the presence of lead. No detailed chemical analysis of the swabs was carried out to identify individual particulates which could be scientifically associated with the discharge of a weapon, or whether the individual had a weapon or ammunition in their possession. Ms Kiernan further noted that, within the case file examination notes, there are records to show that some positive specks of lead, and one smear, were detected on Margaret Gargan's trousers and jacket. These had not been reported upon by the forensic scientist, Mr Martin, who conducted the examination at the time.

8.104 Ms Kiernan commented that a positive result for the presence of lead is indicative of contact with a lead item. When a bullet passes through clothing, lead wipe from the bullet's surface and/or lead from the core of the bullet (if unjacketed or the jacket is damaged) can be transferred to the clothing surface. Ms Kiernan expressed the opinion that the small specks of lead could be associated with Margaret's clothing having been in secondary contact with lead, or in the vicinity of a bullet (or bullets) that had fragmented, possibly exposing her clothing to a cloud dusting of lead if she was close by it.

8.105 Ms Kiernan concluded that the reporting of lead can be explained by the associated gunshot injuries sustained and cannot be scientifically associated with Margaret Gargan discharging or handling weapons or ammunition. As with other deceased, Ms Kiernan noted that there is no physical evidence to support that Margaret Gargan was in possession of a weapon.

8.106 Prof Crane also commented briefly on the presence of lead, preferring to leave the matter to Ms Kiernan. Nonetheless, as noted above, Prof Crane commented that whilst lead may be detected on the hands of an individual who has fired a weapon, the test is non-specific, and it is possible that the lead residue on Margaret's left hand had come from the jacket she was wearing if her hand was in contact with the garment.

8.107 As further noted above, the next of kin of Margaret Gargan instructed Jennefer Gray, an expert in the field of forensic chemistry casework (including fire investigations, explosives and gunshot residues) to consider the result of the forensic examinations. In her report, Ms Gray set out information pertaining to the formation and deposition of gunshot residue (or cartridge discharge residue) particles.

8.108 Ms Gray stated that single-component particles, such as those containing lead only, are not characteristic of gunshot residue as they can have alternative sources. Ms Gray considered it important to note that no significance is now attached to the finding of a single characteristic particle, since it has been found that single particles can be picked up from the general environment and can be present on a person who has had no contact or association with firearms. Her report further noted that lead bullets can distribute lead particles in the environment by striking objects or by breaking up when fired, such that lead can originate from a firearms source other than gunshot residue.

8.109 Turning to the particulars of forensic examinations of Margaret Gargan's clothing and swabs, Ms Gray considered that the testing undertaken appeared to be the sodium rhodizonate test, which was routine in 1972. However, she stated that while this was a reliable test for lead, it does not discriminate between the different *sources* of lead and is not a test for gunshot residue. Ms Gray also noted that, in 1972, lead particles would have been more widely present in the environment than today as a result of the use of more lead-containing products, including leaded petrol and lead-based paints. She considered that it was not possible to distinguish between lead from a firearms source and a non-firearms source using the sodium rhodizonate test alone. Indeed, that test is not used in the present day to test for gunshot residue.

8.110 Ms Gray consequently cautioned that the significance of the forensic findings must be considered in conjunction with the circumstances of the incident and also what occurred between the time of the incident and the time the swabs and clothing were collected, as well as the manner in which these were collected. This included not only Miss Gargan's exposure to gunshot residue and lead when she was shot, but also whether or not she was or may have been in contact with people or surfaces which may have themselves been exposed to gunshot residues or to other lead sources.

8.111 Ms Gray elaborated on these issues when commenting on Dr Griffin's statement. She noted that Margaret had been shot and was then lying in an area which was reportedly exposed to subsequent gunfire. As such, she would have been exposed to sources of lead including gunshot residue and/or fragmented bullets. She continued that there could also have been lead residues on the ground on which Margaret was lying. Ms Gray considered that, given these circumstances, and since gunshot residue is readily transferred from one surface to another via direct or indirect contact, the presence of lead on Margaret's clothing and hands was not unexpected.

8.112 Ms Gray continued by noting that Margaret was subsequently recovered, tended to by bystanders, and transported to hospital. These actions of others, who may themselves have been sources of lead, may have resulted in transfer of lead to Margaret's hands and clothing, or transfer from her own gunshot wound to her hands and clothing, between the time she was shot and the time her clothing and hand swabs were recovered.

8.113 Finally, Ms Gray considered it noteworthy that the hand swabs were collected from Margaret by the SOCO at postmortem and that no information is available in relation to what procedures the SOCO followed to ensure that no cross-contamination took place. She further noted there is no indication in the FSNI case file that any negative control swabs, or control swabs from the SOCO's hands or gloves used for sampling (if any), were submitted or analysed. Ms Gray considered that, in the absence of testing of negative control samples collected at the same time as Miss Gargan's hand swabs, it is not possible to exclude SOCO Logan or the swabs themselves as sources of the lead.

8.114 Ms Gray concluded, taking the above factors into consideration, that there was no reliable evidence to support that Miss Gargan fired a gun or that she ever had any direct association with a gun.

8.115 In her evidence to the inquest, Ms Kiernan was also asked about, and touched upon, these issues. She stated that the only testing that was utilised in 1972 was the sodium rhodizonate test, which is a sensitive chemical test for the presence of lead. Although lead is a component of cartridge discharge residue, the test used does not distinguish between lead from gunshot residue and lead arising from contact with a bullet or other lead object. The current standards used in gunshot residue analysis would be looking at the primer composition, rather than simply lead. Ms Kiernan noted that lead was found in multiple sources which were non-firearms related, such as lead petrol or from individuals who worked as mechanics (as exhausts are sources of lead). She observed that it was unknown how clean the vehicle which transported Margaret to hospital had been, and whether lead could have been present in the vehicle which could then have secondarily transferred onto her. Ms Kiernan stated that the finding of lead did not necessarily mean that the individual had any association with weapons. Ms Kiernan further addressed the issue of controls. She stated that if she were to perform a chemical test, she would take a control sample to make sure her hands or gloves did not contain any lead which would contaminate the sample she was taking. She noted that there was no reference to any control samples taken at the time. With regards to Ms Gray's report, Ms Kiernan confirmed that she agreed within it.

8.116 On the presence or absence of lead on clothes, or hand swabs, the whole tenor of Ms Kiernan's evidence was that this did not assist with the question of whether a deceased or injured person handled a firearm or ammunition or was in the vicinity of a weapon when it was discharged. The presence of lead was not indicative of being associated with a firearms incident. However, Ms Kiernan's evidence was also that the absence of lead also did not necessarily mean that the individual had not been in contact with a firearm either.

Brian Petticrew and Martin Dudley

Pathology evidence

8.117 In the course of his oral evidence, Prof Crane was asked a number of questions by Mr O'Hare on behalf of Mr Petticrew in relation to the injuries he sustained on 9 July 1972. Mr O'Hare conducted this questioning with the benefit of some recent photographs of Mr Petticrew's injuries, which showed scarring, and some limited notes from his treatment at the RVH. Prof Crane could see where Mr Petticrew had undergone surgery but was unable, at this remove, to give any view as to the tracking of the bullets which had struck him. The notes recorded that Mr Petticrew had suffered a gunshot wound in his right arm and the right side of his back on 9 July 1972; that he had had extensive surgery to his right lower chest; and that he had been in hospital for three weeks. Prof Crane accepted that the photographs he was shown were consistent with Mr Petticrew having been shot once from the front to the anterior upper arm and then once to the back.

Forensic evidence

8.118 Six hand swabs were also taken from the hands of Mr Brian Petticrew and Martin Dudley by a SOCO and submitted to DIFS. Ms Kiernan also had access to the case notes which record the results of the analysis of these swabs; however, she had not had sight of the reported findings.

8.119 The swabs taken from Mr Petticrew were recorded as "all being very dirty, except for the swab taken from the [left 'v']". A small speck which tested positive for lead was found on the swabs taken from the right 'v' and the back of the left hand.

8.120 No positive result for lead was detected on the hand swabs taken from Martin Dudley.

8.121 Ms Kiernan opined that the lead particles on samples from Mr Petticrew's hands could have originated from a bullet that struck him, or if he touched an area that was struck by a bullet or a lead fragment. The particles could have originated from a firearm or from a non-firearms source. If they were from a firearms source, because of the nature of the incident and the environment at the time in question, Ms Kieran said that it was not possible to determine conclusively the origin of the particles on Mr Petticrew's hands, or how they arrived there.

8.122 This issue was addressed in further detail in the report of Ms Gray dated 5 April 2004. This report addressed a number of issues already discussed above in the context of Ms Gray's evidence relating to Margaret Gargan. In Mr Petticrew's case, she noted that, at the time of the incident, he worked at DC Products and had done so between 1970 and the time of his being shot on 9 July 1972. The work there

included making and fitting car exhausts, soldering and being in the presence of paint spraying (undercoats and topcoats, which may have been lead-based).

8.123 Ms Gray explained that a particle containing lead-barium-antimony would be considered characteristic of gunshot residue, for example. However, single component particles, such as those containing lead only, are not characteristic of gunshot residue as they can have alternative sources. Today, this discrimination is possible due to the use of scanning electron microscopy with energy dispersive x-ray analysis. In the 1970s, however, this was not a technique routinely available or used. The result is that no significance is now attached to the finding of a single characteristic particle, since it has been found that single particles can be picked up from the general environment and can be present in a person who has had no contact or association with firearms. She noted that lead bullets can also distribute lead particles in the environment by striking objects or by breaking up when fired. As such, lead can originate from a firearms source other than gunshot residue.

8.124 Ms Gray's opinion was that the presence of two small specks of lead on swabs from Mr Petticrew's hands did not provide reliable evidence that he had any links to firearms. Exposure to lead could have arisen from a non-firearms source, such as his place of work. In 1972, lead particles would have been present in the exhausts and exhaust fumes as a result of the use of leaded petrol, and also in vehicle brake pads and in lead-based paints. Since Mr Petticrew worked in the vicinity of these sources, the presence of lead on his hands was not unexpected.

8.125 Even if the lead originated from a firearms source, Ms Gray's opinion was that the presence of two small specks did not provide reliable evidence that Mr Petticrew had held a firearm at any point. He was shot in the arm and in the back and said that he had been going to the aid of Martin Dudley, who had also been shot, as well as John Dougal being shot and killed in close proximity of time and place to his own being shot. The clothing of each of them was therefore a potential source of gunshot residue. They could also have been lead residues on the ground that he touched. Given the circumstances, and since gunshot residue is readily transferred from one surface to another via direct or indirect contact, the presence of gunshot residue on Mr Petticrew's hands would again not be unexpected in Ms Gray's view. He may also have been exposed other sources of lead, such as lead bullets or bullet fragments, or other sources of gunshot residue (for example, other people, in emergency vehicles or in hospital treatment areas) between the time he was shot and the time the samples were collected from his hands. In the absence of testing of negative control samples, it was also not possible to exclude the SOCO or the swabs themselves as sources of the lead.

8.126 Ms Kiernan confirmed that she agreed with the report of Ms Gray in respect of Brian Petticrew; and emphasised again that the presence of lead did not discriminate between a person handling a firearm, or whether the lead was associated with a non-firearms source, nor whether the lead present could be explained by secondary transfer.

Lines of sight

8.127 In the course of her report, Ms Kiernan reviewed the accounts given by soldiers in the ciphered statements for the purpose of examining the possible lines of sight (from firing positions to the described location of persons fired at) which are described in those statements. In doing so, she had access to a range of materials illuminating the topography and geography of the area at the time, including materials provided by PIPs (consisting of, amongst other things, historic photographs gathered from open sources and social media) and maps and plans created for the purpose of the inquest by Mr Vannan.

8.128 In commenting upon Soldier A's actions (as described in Soldier E's statement), Ms Kiernan referred to the indication from Soldier A to Soldier E that he could see into the garden of 92 Westrock Drive. (The statement refers to "the grass in front of 92 Westrock Drive"). Ms Kiernan's opinion was that the elevation of the two-storey dwellings at Nos 82 and 84 Westrock Drive (two of the Springhill flats) would inhibit any possible line of sight from Soldier A's position in the woodshed to 92 Westrock Drive (another Springhill flat beyond Nos 82 and 84 from Soldier A's position). From my own analysis of the evidence, this appears correct. In Figure 16 of Ms Kiernan's report, she plots a possible line of sight towards 92 Westrock Drive, which is inhibited by the two-storey construction of Nos 82 and 84 but also appears to place Soldier A in a location within the woodshed, at its very southeasternmost corner, much further to the east than other evidence would suggest.

8.129 Relatedly, Ms Kiernan indicated that, based on the height of the two-story dwelling Nos 82 and 84, she could not envisage there being a direct line of sight into the front of 92 Westrock Drive from anywhere within the woodshed. Mr Vannan was asked to comment on the respective topography and height of these relative buildings and the gap between Nos 84 and 86. Mr Vannan addressed this in his supplemental report of 15 April 2024. Without specific height data, he was unable to say whether there could have been a line of sight of parts of 92 Westrock Drive from within Corry's Yard.

8.130 In commenting upon Soldier B's statement, Ms Kiernan noted that Soldier B indicated that he was able to see into the rear garden of 32 Westrock Drive. In order to do so, he would have had to have been sufficiently elevated to see over the houses at 16-31 Westrock Drive in order to give him a field of view into the rear garden of No 32. This was illustrated as a yellow arc within Figure 21 to Ms Kiernan's report (see Appendix F).

8.131 Looking at Soldier C's statement, Ms Kiernan addressed the indication that Soldier C observed a male figure in the upstairs window of No 68 Westrock Drive. The statement noted that No 68 was "a block positioned on the north-eastern corner of the blocks of flats" and that the male was "opposite the front gable wall of No 60, Westrock Drive". For my own part, I found this a little difficult to follow. The *gable* wall of No 60 would appear to face No 47. The *back* wall of No 60 would appear to

face the row of flats (Nos 62-72) which *contains* No 68; but it is an odd description to say that No 68 is “opposite” that wall. That might be a more understandable description of No 62 Westrock Drive (which *is* on the north-eastern corner of that particular block). For her part, and appearing to assume that the reference to No 68 was correct, Ms Kiernan observed that Soldier C would have to have been sufficiently elevated to see over houses 43, 45 and 47 Westrock Drive to give him a field of view to cover No 68 and the gable wall of No 60 Westrock Drive. She said that the bungalow at No 60 is not opposite No 68. In any event, Soldier C would have had to have been positioned to the right of arc 1C (marked red in her Figure 21) to enable a line of sight beyond, to the right of, the two-storey building of No 49 Westrock Drive. Again, in my view, this does not appear to accord with other indications which would appear to place Soldier C further to the west within the woodshed.

8.132 Soldier D stated that he was in an elevated sangar in the northwest corner of the wood yard. He described, around 20.00, observing 2 gunmen about 300m south of the position he was in, who were concealed behind a partially built wall, directly to the left of Corpus Christi Church. He described discharging rounds at these men between 22.00 and 23.00 and thought it was quite possible that he had hit one of them, as the man in the blue jumper fell to the ground. Ms Kiernan indicated a possible location for Soldier D within Figure 17 of her report. This location did not accord with my own view of Soldier D’s likely location from his statement, which I had considered more likely to be the elevated sangar at the very northwest of the Corry’s site (indicated as position A on the RMP plan). However, Ms Kiernan also indicated that there was an additional, possible line of sight “between the opening to the east of May’s shop”. The height of the two-storey dwellings appeared to her to restrict direct lines of sight to areas next to the two-storey dwellings east of the red line from a soldier positioned in the area of Corry’s Yard which she had indicated.

8.133 When discussing Soldier E’s statement, Ms Kiernan’s evidence was that she could not envisage there being a direct line of sight into the front of 92 Westrock Drive from anywhere within the woodshed within Corry’s Yard (see the issue discussed at paras 8.128 and 8.129 above). She did not comment in respect of the other locations upon which Soldier E’s statement suggested he fired, which I consider to represent an indication that those locations were capable of being fired upon from a position within the wood shed which Soldier E may have been occupying.

8.134 The evidence discussed above clearly casts doubt upon at least some aspects of the descriptions in the ciphered soldiers’ statements. There could be a number of reasons for this. One might be that the events described did not occur, or did not occur in the way in which they are described by the relevant ciphered soldier, in cases where there is a clear inconsistency between the content of the statement and the physical layout on the ground. Another reason might be that the ciphered soldier was mistaken in the house number or street name which he gave to the RMP; that the RMP made an error in recording the house number of street name; that there

was an error in transcription when the handwritten statement was typed up into the version of the statement available to the inquest; or that one or other contributor (the soldier or interviewing RMP officer), or both, was operating off a map or plan which contained errors in relation to house numbers.

8.135 Ms Kiernan indicated that the one-storey construction of the bungalows between Corry's Yard and the area between Nos 47 and 60 Westrock Drive (around what was referred to as 'the circle') would have only offered a limited amount of protection from direct lines of sight from Corry's Yard. The general location in and around the area where the cars were said to have stopped would have presented them in a direct line of fire from various elevated positions within Corry's Yard. The opening between the two rows of bungalows at 54-60 and 46-52 respectively would also be in direct line of sight from several positions above the wall of Corry's Yard. Assuming Brian Petticrew and John Dougal were shot there, it would not be possible to define the origin of the shots which caused their injuries.

8.136 In answer to questions from Mr Heraghty, Ms Kiernan agreed that there was a clear uninterrupted sightline from anywhere in Corry's Wood Yard to 84 Westrock Drive, through a direct opening where the electricity box was situated. Even if one was positioned further to the east in the wood shed, in its apex, the height of the shed was significantly higher than Corry's wall, which was in turn higher than the bungalows in Westrock Drive. To similar effect, in answer to questions from Ms Quinlivan, Ms Kiernan confirmed that there was a direct line of sight from shooters positioned above the perimeter wall of Corry's Yard, if firing down into Westrock Gardens. In addition, Ms Kiernan confirmed the content of her report in response to questions from Ms Doherty to the effect that there were direct lines of sight available from several positions above the wall of Corry's down into Westrock Drive, including to the opening running along the houses at 60-54 Westrock Drive.

8.137 In answer to questions from Mr Aiken for the MoD, Ms Kiernan accepted, of course, that she had only limited information in relation to precisely where the soldiers were and exactly where those who were shot had been. Ms Kiernan could provide evidence in relation to lines of sight but accepted she could not say where the deceased had been shot from. She also accepted that there was a direct, uninterrupted line of sight up from Corrigan Park (if someone was shooting at Corry's Wood Yard from there) just in the same way as there was a direct line of sight down from positions in the wood yard to Corrigan Park.

Sniper rifles and scopes

8.138 The ciphered statements indicated that Soldiers A-G were each armed with a 7.62mm Self-Loading Rifle and each with magazines containing twenty rounds of 7.62mm x 51mm NATO calibre cartridges. These weapons were gas operated and designed to discharge in single action only. The effective range of each discharged round was approximately 600m with a suitable scope.

8.139 Ms Kiernan gave detailed evidence as to the specification of sniper rifles in use by the British Army. However, for present purposes, it is of note simply to record that the 303 British Lee Enfield rifle was still in use at this stage as a sniping rifle and it had been re-configured or rebored to accept the standard 7.62mm x 51mm NATO cartridge. That is to say, the same cartridges could be used in the standard SLR and the sniper rifle in use at that time by the British Army (which was referred to as the L42A1).

8.140 Ms Kiernan was asked to comment on a photograph from the book 'Difficulties be Damned' showing a member of 1 Kings with a rifle, purportedly in Corry's Wood Yard, in or around the summer of 1972. She indicated that the profile of the weapon was consistent with a standard issue SLR (the L1A1), although it was fitted with a wooden butt. There was an optical scope on the upper receiver which she described as "somewhat unusual", since the L1A1s were not designed to accept an external scope. Rather, they were designed simply to use the 'iron sights' on the weapon itself. Ms Kiernan said that she did not recognize the sight shown in the photograph at all, describing it as looking as "almost something experimental". She considered that soldiers might refer to it as a sniper scope; and she would describe it as an optical scope.

8.141 When asked about SM16's evidence that he had never seen a sniper scope on an SLR, Ms Kiernan repeated that these weapons were not designed to be fitted with an external scope. She could not say whether an individual soldier had an SLR with a scope (such as Soldier B claimed). That is what the photograph to which she had been referred appeared to show.

8.142 Ms Kiernan indicated that, from research she had carried out, when the British Army came to Northern Ireland, with all soldiers issued with L1A1 SLRs, they realized quite quickly that the weapon was "not fit for purpose in an urbanized area" because of the use of the iron sights. Weapons would be "zeroed in" for each soldier's eyesight, normally to a distance of 100m. However, in an urban environment, a soldier may be presented with a much shorter distance, leading them to bypass the iron sight. She understood that they had requested access to scopes and that is when the starlight scope was introduced. She could not say whether the scope shown in the photograph was another scope which was issued which was adapted to the rifle; but she did not recognize it. She was clear it was definitely not a starlight scope.

8.143 Ms Kiernan's evidence was that the starlight scope was not actually issued officially in 1972 and was still in research and development. She produced a picture of the official starlight scope which was issued. Her understanding was, at this point, that a starlight scope may have been issued to each unit but not fixed to a particular weapon; rather, it would be used as an observational tool during hours of darkness. Later, in 1975/1976 the SLR was reconfigured and the L2A2 (a more advanced version of the same weapon) was changed so that the upper receiver

would accept a SUIIT scope which was then issued. In this interim period, it was possible that some soldiers were improvising some kind of solution.

9. DISCUSSION OF EVIDENCE *RE* INCIDENT 1

9.01 It is uncontentious that, in July 1972, John Dougal, the eldest of eight children, was 16 years old and lived with his family at 91 Springhill Avenue. A few weeks before his death, John finished school and began employment at Casey's Bottling Company.

9.02 It is also not disputed that in July 1972 Martin Dudley, who was 19 years old, lived with his family at 68 Westrock Drive; Martin Mulligan, who was 15 years old, lived with his family at 68 Whiterock Drive; and Brian Petticrew, who was 17 years old, lived at 56 Westrock Drive with his family, including his elder brother John Petticrew who was 19 years old. (In various witness statements and documentary evidence, the surname Petticrew is spelt 'Pettigrew'. The first of the Petticrew family to give evidence to the inquest, Martin Petticrew, confirmed the correct spelling to be Petticrew - with a 'c' rather than a 'g' - and I have used this spelling throughout.)

9.03 During the inquest, incident 1 was considered to embrace the shooting of John Dougal and other circumstances which provisionally appeared to relate to that shooting in terms of proximity of time and location. In turn, that included the shooting of Martin Dudley and Brian Petticrew. Although neither of these shootings was fatal, and it was no part of the statutory function of the inquest to make findings about those shootings, some inquiry into them was obviously necessary in the course of fully investigating the circumstances surrounding the shooting of John Dougal. Both Brian Petticrew and Martin Dudley were granted PIP status in the proceedings in light of the lines of enquiry being pursued in respect of them and the MoD's contentions about their possible involvement in paramilitary activity at the time of John Dougal's shooting which may have contributed to it (see Ruling No 2 *re* Brian Petticrew, with the same rationale applying in the case of Martin Dudley).

Civilian evidence *re* death and recovery of John Dougal

Gerard Heath

9.04 Gerard Heath gave evidence on 24 April 2024. In July 1972, Mr Heath (whose nickname was 'Hector') was 15 years old, about to turn 16, and lived with his family at 73 Westrock Drive, one of the brick houses. His immediate neighbours were the Butlers at No 71, while Martin Dudley lived at No 68. Mr Heath provided a statement to the inquest and gave oral evidence remotely for health reasons. A number of earlier accounts provided by him were available and appended to his inquest statement.

9.05 The first in time of these earlier accounts is the written account in the Springhill Massacre pamphlet (1992 version) anonymised as 'Eyewitness Two': see paras 5.34 to 5.38 in Chapter 5. Mr Heath thought that he had given this account far earlier than 1992. During his oral evidence, he explained that, having witnessed a death outside their home, his mother had been intimidated by soldiers and so he did

not want to bring any further attention to his family by being explicitly named. In his inquest statement, Mr Heath accepted that this account was his.

9.06 In addition, there was a short account given to KRW Law which was date-stamped 29 July 1999. (This document misspells the names of some individuals and is missing some information, with some blank spaces left within the text). From the transcript of the inquiry held at St Aidan's School in 1999, it appears that this document was read aloud but that Mr Heath did not attend (although, since the full transcript of this inquiry is not available, it is impossible to be certain about this). In addition, a signed statement was provided to KRW Law dated 20 October 2013. In his statement to the inquest, Mr Heath indicated that some of these earlier accounts contained some errors, which I have addressed below.

9.07 In Chapter 5, I have already discussed the two versions of the Springhill Massacre pamphlet. It was refreshing that, in this instance, there was some clarity as to who provided one of the anonymised eyewitness accounts. In the 1999 version of the booklet, the account of Eyewitness One was removed (so that Mr Heath's account moved up to be called that of Eyewitness One). Other than that, comparing the two versions, there were relatively few amendments. The one alteration of note relates to Mr Heath describing hearing shouting in Springhill but not knowing what was going on there because of where he was. The following text appears in the original publication but *not* in the 1999 version: "We learned later on it was a kid from Ballymurphy called Dee McCafferty. He was hit and the priest and Paddy Butler who lived in Westrock had gone round to try and aid the ones who were wounded at the front of Pettigrews bungalow and also at the side of Fosters' house."

9.08 Mr Heath is potentially an important witness to the inquest as he offered detailed eyewitness evidence in respect of a number of significant issues via several accounts dating back to 1992. In considering the totality of Mr Heath's evidence and assessing what weight I can place on this, and in light of the number of issues he covered, I have tried to outline his evidence in various sections, in each case drawing together his evidence from across his various accounts.

9.09 Mr Heath recalled having been on a tour of Corry's Yard while at school, as a consequence of which he was able to provide some helpful evidence regarding the sheds within the yard. In an aerial photograph (provided by the MoD in its non-sensitive disclosure) he marked the location of the sheds where he said soldiers were located. (By reference to the maps prepared by Mr Vannan for the inquest, the sheds marked by Mr Heath appear to be the large block on which Mr Vannan has placed the text "Occupied by army on 9th July 1972".)

9.10 Mr Heath recalled that on 9 July 1972 he wished to go to a family caravan in Waterford and so had gone to Whiterock to try to arrange a lift. He said that he had gone from his home to that of his friend, Sean Wallace, in Whiterock Crescent, then travelled up Whiterock Crescent into Westrock Parade before turning left onto Westrock Drive. He said he was with his friend, Joe McElkerney (deceased), who

lived in Springhill Avenue. He met Joe as he was walking down and just fell into his company. He described the evening as lovely. He said that he did not know there had been trouble in Lenadoon, describing Westrock as quiet. In his oral evidence, he was asked what he saw as he travelled along Westrock Drive. He described "just a normal scene", with children playing out in the street, particularly at the circle area. He said everybody was out and about and there were plenty of people on the street.

9.11 In his inquest statement, Mr Heath said he originally believed it to be around 6.00 pm, but now knows it to have been later in the evening, when he was walking along Westrock Drive from the Whiterock direction with Joe McElkerney. Then "one shot rang out, then a couple more". The shots were coming from the direction of Corry's Yard and he started to quicken his pace. There were kids playing about the street but there were then more shots. Joe and he "hit the deck" to avoid being shot. On a map appended to his statement, Mr Heath marked his position at this time as at the northwest corner of the turning circle, as the circle straightens to Westrock Drive. The nearest house was Joe Herald's at 47 Westrock Drive. Mr Heath continued that he could see a car across from him, which he thought was grey in colour, with its front facing Westrock. He thought the car was parked as no one was in it. Mr Heath stated that he did not remember any other cars being in the street.

9.12 In his oral evidence, Mr Heath placed himself just past the Cahills' (No 39, at the northeast corner of the turning circle) at the circle when a shot rang out. He said that a shot rang out and he knew right away it came from his right-hand side, which was Corry's Timber Yard. Everybody stopped for a second or two and then, the next time, there were some more shots and everybody started to scatter. He and Joe McElkerney quickened their pace and ran and, as they got nearer into the circle, four shots came again, so they ran and hit the deck outside Joe Herald's bungalow. This was on the footpath right beside the house. Mr Heath recalled that Fr McCaul, whom he knew, came running up behind him from the direction from which he himself had come. Fr McCaul stopped to ask if they were OK before running on into Springhill.

9.13 In the Springhill Massacre pamphlet, Mr Heath (as Eyewitness Two) described going from Springhill into Westrock with an unidentified mate when shooting broke out. (In his statement to the inquest Mr Heath corrected this aspect of the account, confirming that he was in fact coming *from* Westrock walking *towards* Springhill.) He described the shooting getting heavier and said "we all hit the deck", lying along Joe Herald's house. In the 1999 KRW account Mr Heath described wandering into Springhill with Joe McElhenry (which he confirmed in his inquest statement should be McElkerney) when they got as far as Joe Merrol's which is stated to be "the last bungalow, 64, Sprinhill". (This element of the note appears replete with error but may be a reference to Joe Herald's bungalow, which is the last, but is not No 64.) Little detail is provided in that document regarding the commencement of shooting, the direction of fire, cars or Martin Dudley. It is unclear in those notes in what direction Mr Heath described himself to the solicitor as

travelling. However, it does appear that, in his first account, Mr Heath said he was coming from Springhill into Westrock; whereas in his more recent statement to this inquest he has described coming into Springhill through Westrock from Whiterock.

9.14 In the second account to KRW Law, the more detailed signed statement from October 2013, Mr Heath states that on 9 July 1972 he was coming home from a friend's house in Whiterock. Taking the next phase of this statement in stages, Mr Heath said first that he noticed *two* cars were stopped beside each other and the occupants were talking to each other. He marked these on a map appended to that statement at positions A and B (which were positioned just to the west of the turning circle, between Nos 47 and 60, with the car at 'A' being closer to the Heralds' and the car at 'B' being closer to the Tutons'.) He then said he reached a point marked with Xs by the letter C on the map (in the turning circle at the northern side) when he heard a couple of shots ring out. He looked around to see where they had come from. He quickened his pace until he reached the point marked 'D' (to the south of the southeast corner of Heralds' bungalow and closer to the cars) when more, heavier fire took place. He then said in the 2013 statement that the car at position B drove away into Springhill. He thought that three men got out of the car at position A, adding "We all jumped on the ground because we were afraid of the heavy fire." In relation to this final comment, it was not specified in the statement to whom Mr Heath was referring. In oral evidence, Mr Aiken asked him if he was referring to himself as one of the people in the car, which he said he was not.

9.15 During his oral evidence, Mr O'Rourke questioned Mr Heath about the references to two cars and three men within his 2013 statement. Mr Heath accepted that he gave this account in 2013 but could not now remember two cars, nor three men getting out of a car. He stated it was an oversight on his part that he did not correct this aspect of the 2013 statement in his written statement to the inquest, advising that, upon reviewing the earlier statement during his interview with my investigator, he saw the inaccuracy in respect of Mr Dudley (discussed below) and did not look at anything else after that. His evidence to the inquest was that he could only recall the grey car (also described by him as light-coloured) and that he did not recall seeing anyone get out of it; when he looked at that car, there was nobody in it. The car was facing down Westrock, facing the direction from which Mr Heath had come (i.e. facing east).

9.16 Continuing by reference to Mr Heath's inquest statement, he then said that there were loads of shots going off before there was a bit of a lull. "The car door opened and a head appeared just above the roof. There was a big single thunderclap of a shot and it appeared to hit the back of the head of the person." People then started shouting that "they have shot Dud". He could hear this shouting but could not remember anyone else being there. The account in the Springhill Massacre pamphlet contains no description of the shooting of Mr Dudley; it simply records Eyewitness Two lying along Joe Herald's and someone lying further up Springhill in a pool of blood, whom the witness later heard was Martin Dudley. In his oral evidence Mr Heath corrected this, explaining that he had had to say this in the

pamphlet account in order to keep himself anonymous and safe. He said that he had never told anyone what he had seen happen to Mr Dudley until his 2013 statement. There is also little reference to the shooting of Martin Dudley in the 1999 account to KRW Law, although there is reference to someone shouting that Dud had been shot and Mr Heath looking over and seeing him lying in the middle of the road.

9.17 In his 2013 statement, Mr Heath continued that Martin Dudley was getting out of the driver's door of the car. He saw Mr Dudley getting hit by a bullet in the back of the head and said he would always remember seeing "the curl of his hair floating away in the wind". Mr Dudley then fell flat on the ground. Mr Heath was on the ground when he saw Mr Dudley being hit. He could then see Mr Dudley lying on the ground under the car and could see thick red blood on the ground. He again remembered hearing someone shouting, "Dud's hit". In his statement to the inquest, Mr Heath wished to correct an aspect of this part of the 2013 statement. He said that he did not see Martin Dudley in the car: he saw no-one in the car, rather he "saw the car door opening and Martin Dudley's head popped up above the car door and he was hit in the head." (This is discussed in further detail below.)

9.18 Continuing with the 2013 statement, Mr Heath stated that he had pressed himself against a low concrete wall which was approximately 18 inches high. Others were also lying tucked against the wall. He said that he was around 8 feet from the front wheel of the passenger side and could see Martin Dudley lying on the ground under the car, on the other side of the car (the driver's side). In the map appended to this statement, Mr Heath marked his location at the wall as being a slightly more western position than he had been previously, again just to the south of Herald's bungalow and, again, a little closer to the car.

9.19 In his oral evidence, Mr Heath confirmed the correction to the 2013 statement in that he did not see Mr Dudley (or anyone) in the car, noting that, when he saw this earlier statement, he leapt on that point because he did not see Martin Dudley in the car. He proceeded to provide more detail in his oral evidence as to Mr Dudley's location and positioning. He said that Mr Dudley was outside the car on the path and that he opened the car door from the outside. Then a head came up and he was shot in the back of the head. Mr O'Rourke suggested to Mr Heath that a head coming up may suggest the person was crouched down below the car or that they were getting out of the car. Mr Heath was clear that Mr Dudley was out on the footpath and that, when he got to the car, he raised his head above the roof of the car. It was at this point the bullet struck him in the back of the head. He described the shot which struck Mr Dudley as a single high velocity shot.

9.20 In his inquest statement Mr Heath next described a lot of firepower "raining down on the concrete road", which was a mixture of single and semi-automatic fire. He said he was familiar with that from the Ballymurphy massacre. He described hearing the boom and crack above his head, which was like a thunderstorm, and seeing the dust where the bullets were hitting the ground. In oral evidence he also described the army opening fire on the car, after Martin Dudley had been shot in the

head, with single shots and semi-automatic fire. He described this as “like a frenzied attack” with bullets hitting the road, the footpath and a bungalow. He was asked about his description of semi-automatic fire and said this was “very rapid fire”. From his and Mr McElkerney’s position of cover outside Joe Herald’s bungalow, he could see the Tutons’ house on the opposite side of the road, which he said was covered in shots, as was the front wing and bonnet of the grey car parked on the road.

9.21 He then remembered looking to his left (south) and seeing two figures who came to the front (the east side) of Tutons’ bungalow. He shouted at them to get back and they turned and ran back. More single shots and automatic gunfire was fired in their direction. He said he later found out that this was Brian Petticrew and John Dougal. Describing how far he was from these two people, Mr Heath said this was a matter of yards. He was asked if he had the impression that the two figures were coming up together or separately and answered that they were coming up together, running up (he believed) to help Mr Dudley.

9.22 Mr Heath marked on the aerial photo the area of the sheds within Corry’s Yard from where he considered the shooting to have come, towards the area between the brick and tin houses in Westrock. In his oral evidence he described the shooting as coming from all of the sheds he had marked. (With reference to the maps prepared by Mr Vannan, those marked were those with the overlying text “Occupied by army on 9th July 1972” and “Machine shed”.) In his oral evidence, Mr Heath confirmed that he did not see anything to indicate where the shooting was coming from; rather that he could *hear* where it was coming from, describing it as coming from the sheds to his right (north) and only from that direction. When asked if he saw anyone returning fire, Mr Heath said the gunfire was coming from one direction which was to his right, Corry’s Timber Yard.

9.23 In the account in the pamphlet, after describing seeing Martin Dudley lying injured, Mr Heath also recounted that he looked across and saw another two blokes heading towards them. He shouted to them to get back and saw that one of them was John Dougal. All he saw was the back of them turning to run back again and then there was a heavy burst of fire. This account said that he learned later on that one had been killed and one was wounded. A similar, although more disjointed, description is provided in the 1999 account to KRW Law. It contains a curious reference to the shooters opening up again and “trying to hit us at the hill”. It says that “Pettigrew and doughal” were shot and “must have only got a lot of yards because they were shot just out of my eye shot”. Mr Heath said he did not know how long he stayed in at the hill. (I wondered whether this might be another typo in the 1999 document and may, in fact, be a reference to a wall, rather than a hill.)

9.24 In his 2013 statement, Mr Heath stated that when he heard the shout that Dud had been hit, he looked across to a position marked ‘F’ on the map attached to this statement (at the eastern side of 60 Westrock Drive, almost at the northeast corner of the bungalow) where he saw two men approaching. He shouted “get back” and

they retreated. Mr Heath then described hearing a “lengthy volley of shots” which felt like a huge amount of shots coming from the direction of Corry’s Timber Yard, adding “There was a lot of shooting going on.” Mr Heath continued that he could not tell who the men at position F were but they did go back and he did not see if they were shot.

9.25 During his oral evidence, Mr Heath was taken to the pamphlet and the 1999 KRW account where he specifically named John Dougal as one of the two people he saw. He confirmed that, at the time of these events, he knew John Dougal and Brian Petticrew. However, he stated that at the time when he saw the two figures he did not identify them as John Dougal and Brian Petticrew. He was lying under heavy fire and did not know who the two figures were. He later learned who had been shot that day and so, at the time of giving these accounts in 1992 and 1999, he knew who the figures were.

9.26 In his inquest statement, Mr Heath said that he and Mr McElkerney remained lying next to the Herald’s garden kerb whilst the shooting continued. He recalled that Fr McCaul was there, dressed in a priest’s cassock. He also said that he saw Dennis Devenney come from the direction where Margaret Gargan had been shot and run on into Springhill. Martin Dudley had already gone in the ambulance that arrived from the direction of Corpus Christi Church.

9.27 In the pamphlet account, he stated that “we” lay there for a long time. (There is no elucidation as to who Mr Heath was with.) That account describes a steel lamppost beside the electricity box at the side of the bungalow by which they were lying; and states that snipers were trying to play bullets off the lamppost down towards them without success. In his oral evidence, Mr Heath stated that the lamppost was hit a number of times. It is also stated that the persons shooting from Corry’s Yard fired through the bungalow (although it is not specified which bungalow). Mr Aiken asked Mr Heath why soldiers would be trying to shoot at him, to which he replied “because they were shooting at anybody that night.”

9.28 Continuing in the pamphlet, Mr Heath said that, having lain for a long time, he heard running behind him. It was Dennis Devenney from Westrock, who was described as having on a white shirt which was covered in blood. Mr Devenney said that a girl had been shot, whom Mr Heath later learned to be named Gargan. Mr Heath said that Mr Devenney had come up to find out what he could do and they told him to get away and get in for his own safety. The account of Eyewitness Two continues, stating that, “the next thing”, a priest arrived, whom he believed to be Fr McCaul. The firing got heavier and heavier and they heard a lot of shouting going on in Springhill. There were more people hit over at the corner where the Fosters and Billy Mills lived. They did not know anything about this at the time as they were lying where they were and there was very heavy shooting. They learned later on that it was “a kid from Ballymurphy called Dee McCafferty” who was hit and “the priest and Paddy Butler... had gone round to try and aid the ones who were wounded at the front of Pettigrews bungalow and also at the side of Fosters’ house”.

9.29 Mr Heath could not recall what time it was but described it as “a bright evening”. The Eyewitness Two account (discussed in this regard in further detail in Chapter 10) went on to comment on the shooting of the priest and Paddy Butler; but Mr Heath did not actually see this. He said he was unaware that Paddy Butler, with whom his father was very friendly, and Fr Fitzpatrick had been shot until he got home and his father told him. It is stated in the pamphlet account that there were still plenty of rounds stuck in Billy Mills’ wall where the snipers tried to play the rounds off it and down the opening in front of Mrs Donnelly’s and Tommy Doyle’s house. In this account, Mr Heath stated that he could not say how long he was lying there for but that it seemed like hours. He continued to say that the ambulances started to arrive and take the dead and injured away, while he was still lying trapped along Joe Herald’s.

9.30 The 1999 account to KRW also records Dennis Devenney, with a white shirt covered in blood, coming up to see if they were all right; and that Fr McCaul from St John’s had come up behind him, up Westrock. There is no reference in this account to Fr Fitzpatrick, Paddy Butler or David McCafferty.

9.31 In his 2013 statement, Mr Heath stated that sometime after the two men at position ‘F’ had retreated, a man he knew as a resident of the Westrock bungalows approached from Whiterock in a white shirt covered in blood and asked if they were OK. They responded that they were and the man ran on into Springhill. Mr Heath said he did not understand how this man was not shot. In his statement to the inquest he confirmed that this man was Dennis Devenney.

9.32 He said the firing continued, he did not know for how long, and he was unaware of anything that was happening in other parts of the estate. He described the next thing to happen being the arrival of an ambulance which took Martin Dudley away.

9.33 In his inquest statement, Mr Heath also described the arrival of a second ambulance. An ambulanceman emerged and told them to get in the back and lie down and they would be all right. He described being initially reluctant before the ambulanceman stood facing Corry’s, allowing them to go behind him to get into the ambulance where Mr Heath threw himself on the floor. In the back of the ambulance were Mr Heath, Mr McElkerney and two other men. He said in his oral evidence that he did not know who these other men were. The ambulance took them to Whiterock Drive, dropping them off outside Billy Shannon’s shop. Mr Heath and Mr McElkerney walked into Whiterock Road, Corrigan Park and into Springhill to get to their homes.

9.34 In the pamphlet account, having described lying to take cover from the shooting for what felt like hours and ambulances taking the dead and injured away, Mr Heath also stated that somebody sent an ambulance over to them and the ambulance driver told them to jump in the back. He again said they were reluctant at first because they feared once they put their heads up “the snipers would have

dropped us". He said that they jumped into the back of the ambulance, lying down on the floor "just in case he would do with the ambulance what he had done with the cars." The account of Eyewitness Two concludes by stating that the ambulance let them off at Shannon's shop in Whiterock and they made their way back up into Springhill via the Whiterock Road, through St John's, Corrigan Park, over the wall and into Springhill again. The 1999 account describes, in short form, the arrival of two ambulances, one taking Mr Dudley and the second taking Mr Heath, and then Mr Heath's journey to the Whiterock shops and back to Springhill.

9.35 In the 2013 statement, Mr Heath had also stated that after the ambulance took Mr Dudley away, they stayed there and another ambulance arrived. He said that this was much later and commented that it was still bright and there was intermittent shooting. It is again stated that the ambulanceman told them to get in the back, they were reluctant to do so as, according to Mr Heath, "when I did get up I expected to be shot." The statement then proceeds to describe Mr Heath getting into the back of the ambulance, lying on the floor, and travelling to the shops on Whiterock Drive before he returned home to his parents' house at 73 Westrock Drive through St John's GAA Club and the alleyways between the houses. He stated that it was only when he got home that he realised what had gone on across the estate. Concluding this statement, Mr Heath confirmed that he gave an anonymous statement to the Springhill Massacre Committee some years ago. He did not believe he gave any statement to a solicitor (although it seems that he clearly had some interaction with KRW Law in 1999).

9.36 In his statement to the inquest, Mr Heath recorded being asked if he recalled hearing car horns sounding and responded that he did not. He was asked if he saw injured persons with guns, which he stated he did not; and if he saw anyone with a gun, which again he stated he did not. During his oral evidence he was asked if he saw anyone with a gun firing at the soldiers and he responded that he did not.

9.37 During his oral evidence, Mr Heath was also asked if he was a member of any unlawful association at the time of these events. He answered that he was not; and denied that he was a member of the Fianna in September 1972 (as suggested by intelligence material). He was later asked if he was ever involved in the "Republican movement", namely the Fianna or IRA, in response to which he relied on his privilege against self-incrimination. He was further asked if he knew whether Mr McElkerney was a member of any unlawful association and responded that he did not. MoD counsel put it to Mr Heath that John Petticrew, Brian Petticrew, Martin Dudley and Bobby McCrudden were in the IRA and asked Mr Heath if he was aware of this. In response, he relied on his privilege. He was asked about his friendships and associations. As well as Joe McElkerney being a friend, he knew John Dougal, Robert Russell, Gerard Kelly, Martin Mulligan, Paddy McManus (although not well), John and Brian Petticrew, Martin Dudley and Paddy Teer. He did not know John Fusco.

9.38 Mr Aiken also asked Mr Heath if he saw John Petticrew, Martin Mulligan or Paddy McManus at the scene of the incident on 9 July, pointing out that Brian Petticrew's evidence was that Mr McManus was at the car to which Mr Heath had referred. Mr Heath confirmed that he knew these men but did not see them. Mr Aiken also put to the witness the evidence of Patrick Butler that he had seen Martin Mulligan and Martin Dudley in a car travelling towards the circle. Mr Heath's evidence remained that he did not see Mr Mulligan.

9.39 There were elements in Mr Heath's evidence which I did not find credible and/or in respect of which I concluded he was withholding information. I do not doubt that he was present at the incident; that he was pinned down at a time when there was shooting; and that he saw relevant events at the car at or about the turning circle on Westrock Drive. There is a relatively high degree of consistency between all his accounts on *some* aspects of his evidence. On others, I considered that he was clearly tailoring his evidence or account at later stages and that the earlier accounts (both as Eyewitness Two or in the 1999 and, more particularly, the detailed 2013 account) were more likely to be correct.

9.40 In particular, the change in his evidence to an insistence, contrary to the detailed 2013 statement which he had provided, that (i) Martin Dudley was not *in* the grey car which he saw and (ii) there was only one car which he saw, did not appear to me to be credible. I also found it highly surprising that Mr Heath did not purport to have seen either Paddy McManus or Martin Mulligan (each of whom he knew) or Gerard McMenemy at any point during the events he described. All three of these men were described by other witnesses as being in close proximity to Martin Dudley after he was shot and/or as having tended to him in some respect whilst Martin Dudley was lying seriously wounded. Mr Heath purported to have a clear view of Martin Dudley under the car, to have been only a matter of yards away, and to have remained in his location for a long time, including until a point after Martin Dudley had been taken away an ambulance. I also detected a reticence, which I did not believe was genuine, in admitting that, at the time, he had recognised John Dougal as being present (rather than only piecing this together at some later point).

9.41 There was also a concerning conflict in Mr Heath's accounts as to where he had come from before his interaction with the events described; whether coming down from Springhill Avenue with Joe McElkerny or coming up from Whiterock having been on an errand there. Generally, I considered that Mr Heath did not want to identify anyone else whom he may have seen at the scene. (He claimed, for instance, that, when in the back of the ambulance with two other persons in addition to his friend Joe, he did not look round at the other men as an explanation for not knowing who they were. I did not consider this credible. He was in the safety of the ambulance at this point and it would have been only natural to engage with, or at least look at, others who had shared the same traumatic experience. One of these persons may have been Paddy McManus who, Felix Cush said, had told him he escaped in an ambulance.) Mr Heath's 2013 account appeared to me to provide as much detail as he could remember then about what occurred, but without naming

others and introducing the suggestion that he had come from Whiterock, rather than Springhill.

9.42 I did not find his explanation for the change in accounts convincing. He relied upon the fact that, in his Eyewitness Two account, he did not want to provide some details, or accurate details, in order to retain his anonymity, in light of potential harassment by the security forces. However, given that it was an anonymous account, and it was unlikely that the security forces could identify him from any details provided in the pamphlet, I did not consider this a valid or frank explanation. I consider it just as likely, if not more likely, that the reason for anonymity was because Mr Heath did not wish to publicly place himself at the scene of whatever may have been happening at the circle area at the time. A possible reason for this is that he was travelling in the car which he later contended he could not recall.

9.43 In all, I believed the basic outline of Mr Heath's evidence: that he was present and saw most or all of what he recounted. (This was corroborated, for instance, by the evidence of Gerard Kelly, whose evidence is discussed in detail in Chapter 10. Mr Heath was named by Mr Kelly as the 'mate' of his who was referred to in Mr Kelly's book as being near to Martin Dudley at the time when he was shot (describing a "puff of hair lifting off his head"). Mr Kelly said that Mr Heath recounted this to him shortly afterwards, as he did in his 2013 statement.) However, I do not consider that he was being entirely truthful in his evidence and suspect that previously, and indeed now, he was aware of additional details which he did not wish to share (or from which he wished to retreat) in order to paint himself or others in a better, or less suspicious, light.

Thomas Reid

9.44 Thomas Reid gave a statement and oral evidence to the inquest on 1 March 2023. As it happens, he was the first witness to give substantive evidence in the oral hearings. He had previously given an account to KRW Law in 1999, which he also adopted in addition to his inquest statement. Mr Reid was 11 years old in July 1972. He lived at 30 Westrock Drive, one of the aluminum bungalows, with his family.

9.45 In both his statement and oral evidence, Mr Reid provided some helpful information and descriptions of Corry's Yard (probably much more so than had he been called at a later stage of the oral hearings). He described Corry's Yard as overlooking the estate, with the whole frontage of the yard starting from the brick houses in Springhill and running along Westrock. He recalled three sheds and a crane, and that the sheds had asbestos roofs. Using one of the maps prepared by Mr Vannan for the inquest, the witness identified these sheds as the large block on which Mr Vannan has placed the text "Occupied by army on 9th July 1972" (immediately to the east of the machine shed and close to the perimeter wall of Corry's Yard, north of the turning circle). Mr Reid was shown two photographs found by a colleague of Mr Vannan on the Whiterock Westrock Historical & Cultural

Society's Facebook page. The photographs are undated, though appear to be of some vintage. Mr Reid confirmed the sheds visible in the photographs to be the same as those to which he had referred and to be how recalled the sheds to be in 1972. He further confirmed the perimeter wall of Corry's Yard to be visible in the photographs, describing it as a concrete wall with metal fencing on top.

9.46 Mr Reid said he could remember 9 July 1972 because of what he witnessed that day. He said that he was aware that there had been trouble in Lenadoon but that the Westrock area was quiet. (In answer to later questions from MoD counsel, he said that there was no trouble in Westrock as there was no one there, everyone had gone to Lenadoon.) He described it as a "lovely evening". He had been in Corrigan Park for around three hours building grass huts from the recently cut grass with Paul Tate, then 12/13 years old, and Fra Lewsley, 15 years old, when his brother Jim, who was 16 years old, came to get them for tea. Mr Reid thought the time was about 8.00 pm but acknowledged that he could be mistaken. He said that it was still bright.

9.47 He recalled that Jim was still with them when he heard four or five shots ring out. He confirmed these were the first shots he heard. He, Paul and Fra ran up to the top of the small hill in the park to look out over the Westrock Estate and see what was happening. (This hill is also referred to as a "mound" or an "embankment" in other evidence.) He stated that from the top of the hill it was possible to see the circle where he would play football on Westrock Drive. Mr Reid marked the approximate location of the hill as 'A' on a map appended to his statement. This was at the northern end of Corrigan Park and his position on this hill was towards the eastern side. In his evidence, Mr Reid described this area by saying "a hill came up from the wall", estimating that it was about 16 feet high.

9.48 At the circle, which Mr Reid confirmed in his evidence was the turning circle, he saw a dark-coloured car which he thought looked like a Vauxhall. He said that he could see someone "slumped out of the car", describing this as "half in, half out" in his evidence. He did not know who this person was but later heard it was Martin Dudley. He estimated the distance between himself and Mr Dudley to be around 150-200 metres.

9.49 Mr Reid also marked the approximate location of the car on a map appended to his statement. This was towards the western side of the turning circle, close to No 47 Westrock Drive. In his evidence, he confirmed the car was outside the Heralds' house (No 47), referring the court to a photograph of this house to show where the car had been. In his inquest statement, the witness continued:

"I then saw John Pettigrew, Brian Pettigrew and John Dougal trying to run towards the Petticrew's house. John Dougal was slightly in front and Brian passed him. I then saw what looked like an explosion in John Dougal's chest and Brian Pettigrew turned round to try and grab him and

then was hit with bullets. John Dougal fell face forward onto the ground. I think Brian was hit maybe 6 or 7 times because I could see his body jumping, he looked like a puppet on a string.”

9.50 During his evidence, Mr Reid was asked about an apparent discrepancy between his inquest statement and an account he provided to KRW Law in 1999. In the former, set out above, it is stated John Dougal was shot *before* Brian Petticrew while in the latter, it is stated, “Brian Pettigrew was hit first and then John Doughal seemed to explode with the impact.” The witness confirmed his current position that John Dougal was hit first, in the chest, which came through the back. Brian Petticrew turned and was shot a number of times. John Dougal fell in front and then Brian Petticrew turned and was shot. He said it was very quick, like automatic fire. However, as far as he could see, John Dougal was shot first. In his evidence, Mr Reid clarified that “it seemed” Brian Petticrew was hit six or seven times. He confirmed he saw all of this from his vantage point on the hill.

9.51 In answer to questions from counsel, Mr Reid confirmed he first saw John Dougal, Brian Petticrew and John Petticrew at the Tutons’ house at 60 Westrock Drive. He did not see where they had come from. He described them as running down Tutons’ garden through the Kellys’ garden at No 58. (Some other witnesses described this as Bart Meenan’s house, who lived there at the time. The Kelly family, including Brian O’Kelly who was a witness in the inquest, had previously lived there. In any event, it is clear the witness was referring to No 58.) They were running towards the Petticrews’ house at No 56. Mr Reid described them as running straight down the grass, explaining that there was no fencing. He said it was at the Kellys’ that they were shot. Mr Reid further stated that John Dougal was facing him when he was shot. It was put to him that there may be other evidence suggesting that John Dougal was facing Corry’s Yard at the time he was shot; but this witness confirmed that that was not his recollection. He also said that none of them was carrying any guns.

9.52 In response to questioning from Mr Aiken, Mr Reid stated that when John Dougal and Brian Petticrew were shot he saw shots coming from Corry’s Yard, describing “flashes coming out of the hole”. Using the photographs mentioned above, he described the hole as being in the triangular part of the sheds, that is, towards the apex where there was metal or asbestos. He had previously said that you would not have seen who was shooting as they would have “used the holes”.

9.53 Mr Reid described in his statement that bullets then started to hit the ground in the park where he and his friends were standing “because you could hear the whizzing sound and see the clumps of ground lifting into the air”. During questioning he stated that the bullets, he estimated four to five, were coming “straight at” them. The group were facing Corry’s Yard and, as far as he could tell, the bullets were coming from the direction of Corry’s, hitting the hill where he was standing.

9.54 During his evidence Mr Reid was asked if, at that stage, he was aware of gunfire from any other quarter or source. He said no, none whatsoever. He was asked if he saw anyone with guns and confirmed that he did not; and if he saw anyone firing guns, and confirmed that he only saw firing coming from Corry's Yard.

9.55 Mr Mansfield took the witness to the RMP plan showing their analysis of the positions from which gunmen fired and the positions from which soldiers fired. Mr Mansfield referred Mr Reid to the marked position 9, which appears to be marked on the hill at Corrigan Park, and suggested to him that if there had been a paramilitary shooting position within the park, particularly on the hill, he would have been aware of this and would have mentioned it. Mr Reid agreed. He said there was no-one there, just him and his friends. (I note, however, that the RMP plan and legend suggests that the gunman said to have been at position 9 was not fired upon until 10.00 pm so that, if there was a gunman in this position, it is possible that he was not there at the same time as Mr Reid but later.) Mr Reid also addressed position 11 on the RMP plan (approximately halfway down Corrigan Park on the western side). He said that this area was the grandstand and, in his opinion, it would not be possible to shoot at Corry's Yard from that position because the brick houses would be in the way.

9.56 Mr Reid explained that his brother pushed Paul and him down the hill to the gap between the hill and the wall of Corrigan Park, while Fra jumped down. He then described their journey along the inside of this wall before they climbed over the wall and out of the park and went to Brian Muckian's house at 102 Westrock Drive. Mr Muckian told them to stay at this house while he went to the Campbells' house to see if he could help. Mr Reid recalled shooting when Mr Muckian tried to get to the Campbells'.

9.57 Mr Reid stated that, after 15-20 minutes, his brother said that they should walk home. He described their journey from the back door of the Muckians, up the passageway between Nos 92 and 94, crossing over the alley to No 80 (marking this journey on a map appended to his statement.) There, he said, they stood for 5 minutes sheltering by the front of the houses. Mr Reid recalled that nuns were brought into a house at No 78 or 80, it being his belief that they were going to try to help Fr Fitzpatrick and Paddy Butler. He stated that he could see three bodies lying outside the Fosters' house at No 84. He had again marked this approximate location on a map appended to his statement. While he did not know at the time who the bodies were, he confirmed that he now believes them to be Fr Fitzpatrick, Paddy Butler and David McCafferty. Mr Reid confirmed that he had not seen the shooting of these individuals.

9.58 In common with other witnesses, Mr Reid described shooting which prevented people from getting to the bodies. There were people there trying to get them but they were getting shot at when trying to pull the priest in. He recalled Billy Macklin and a man named McMenemy being two of those trying to get to the

bodies, both men being at the front of the Fosters' house. He continued to describe one incident where "they" open fired on a man at the corner of the Fosters' house, causing a chunk of that brickwork to fall away, and the man lay pretending he had been shot. He was asked where this shooting was coming from and said that it must have been Corry's. That was the only place it could have been coming from.

9.59 Mr Reid said he and his brother were stuck outside No 80 for five to six minutes and could not move forward to get to their home because of the shooting. He stated that, as he was between two blocks of houses, he could not see where the shooting was coming from but he thought it was coming from Corry's Yard. Unable to continue their journey home, he and his brother went back to the Muckians' via the same route they had come, where they remained until 7.00 to 8.00 am the next day.

9.60 Mr Reid was asked in his statement if he recalled hearing car horns sounding before the shooting and said he did not. He also stated that he did not see any ambulances, though he recalled hearing them. His evidence was that there was no shooting at the army on 9 July 1972 because everyone was at Lenadoon and the area was very quiet. In response to questioning, he confirmed that he did not see any shooting at the army on 9 July.

9.61 Mr Reid also gave some evidence about his recollection of events the following day, 10 July 1972. He said that around 11.00 am to midday he was playing near the circle in Westrock Drive when some cameramen appeared and filmed the outside of Corry's Yard. (This is corroborated by the Battalion Log which has an entry at 10.52 on 10 July indicating that TV crews were then interviewing residents of Westrock.) He said a shot was fired and the people on the street started to run and took shelter in each other's houses. Mr Reid said this happened when the camera crew went to film bullet holes. When asked who was shooting, he said that it came only from Corry's Yard, though probably in the afternoon there was shooting back at Corry's Yard. Mr Reid said the shooting lasted for hours. (I note the Battalion Log says that, at 11.04, the OP at Corry's reported movement away from the Westrock area, suggesting that trouble may be imminent, with people moving into houses. Shortly after, at 11.07, there is an entry saying the TV cameras could not be seen and the streets were now completely clear. A further entry at 11.23 reported seeing three gunmen at Corrigan Park; a sniper is then reported on a water tower; and a soldier sustained a bullet wound on a mobile patrol in a 'pig', with the bullet going through the door.)

9.62 Mr Reid recalled hearing that some people were shot on 10 July 1972, including Robert Nesbitt who was going to Margaret Gargan's wake when he was shot outside the Clarkes' house at No 38. He believed this to be late in the afternoon.

9.63 He said that the IRA returned fire on that day, starting in the afternoon and continuing for the rest of the day. He recalled that people were evacuated to St Peter's School as the shooting continued. Mr Reid gave some further evidence about

the IRA returning fire that day. He said you could see it. It was in a house, with sandbags at the window, in the afternoon (from 2.00 to 3.00 pm). He could see the firing from where he lived and was told that it was from a sub-machine gun. He later clarified that this was from 'Old Jack's house', which was 88 Britton's Drive. The firing went on all day and there would have been other areas where people were shooting back. He personally saw a couple of gunmen firing back and said they were trying to shoot the roof off so the soldiers could not hide. There was a gunman at the Tates' bungalow (at No 33, just below the bottom sheds) firing at the holes in the shed using a rifle, around 5.00 pm. That day people were firing back at the sheds from different areas, including from the windows of the brick houses (at Nos 53 and/or 55) in the afternoon and into the night. He also heard firing from the hill at Corrigan Park that day. However, Mr Reid reiterated that there was no shooting at the army on 9 July of which he was aware.

9.64 He was asked to provide details of anyone he knew was in the IRA and provided three names on a piece of paper which was provided to me, since he did not wish to give this evidence openly in court and was invited to provide the information in this way by MoD counsel. When asked how he was aware of these names, he said that for a while the area was a 'no-go area' and they were people he had seen 'patrolling' the area at that time. In addition, they were names that "people talked about".

9.65 As noted above, Mr Reid provided an account to KRW Law. The written document is undated, although other available evidence suggested it was taken on 2 August 1999. Mr Reid himself believed it was recorded in 1999. This earlier account contains less detail than that provided to me, although the two are broadly similar, save for the discrepancy in relation to whether John Dougal or Brian Petticrew was shot first.

9.66 Mr Reid was asked if there was any doubt in his mind about the evidence he had given to the inquest and confirmed there was not. Regarding those killed and injured on 9 July, he said that he was friends with Margaret Gargan, who lived opposite him, and whom he described as a great footballer and a tomboy. He knew Brian Petticrew very well as he, Mr Reid, was friends with his brother Martin Petticrew.

9.67 Although I have some concerns about the reliability of a witness recalling details from when they were only 11 years old, I thought Thomas Reid generally came across as a straightforward and honest witness with a reasonable recall. Unlike some other witnesses in the inquest, he provided (what I considered to be) frank evidence about IRA activity of which he was aware on the following day, 10 July 1972. (This might have been, in part, because the approach to giving civilian witnesses rule 9 warnings in this territory had not been debated and settled at the time of his giving evidence. Nonetheless, he was prepared to give candid evidence about civilian firing.) On the whole, I considered his evidence credible. Some of the detail in relation to the shooting of John Dougal and Brian Petticrew is perhaps less

reliable since (i) his evidence changed to some degree over time as to who was shot first and (ii) he considered that Brian Petticrew may have been shot six or seven times, which is unsupported by other evidence (although this was an impressionistic assessment based on the jerking of Mr Petticrew's body). Having said that, Mr Petticrew was shot more than once and, on his own evidence, was shot in the arm before John Dougal and then shot in the back *after* John Dougal. In those circumstances, some confusion about the precise chronology may be understandable. His evidence was also corroborated to a degree by the account of Francis Lewsley who was with him at time (although he was unable to give oral evidence in this inquest). Mr Lewsley did not purport to see the crucial moment of John Dougal being shot but did give written evidence of John Dougal lying in the approximate location of where Thomas Reid saw him fall. I did not consider there to be any necessary inconsistency between the evidence of Thomas Reid and that of Francis Lewsley. The discrepancy in what they each saw would be perfectly explicable if Mr Lewsley simply took longer to get to the top of the hill at the end of Corrigan Park than did Mr Reid from whatever positions they were in in the park. In addition, given Mr Lewsley's evidence that his mother had come out of her house to assist, he was no doubt preoccupied with her safety at that point, as his evidence clearly suggests.

Richard Clarke

9.68 In July 1972, Richard Clarke was 10 years old and lived with his family at 57 Westrock Drive. Mr Clarke provided a statement to the inquest and gave oral evidence (remotely, due to health issues) on 9 November 2023. Upon having his statement read to him, he corrected some matters within it, explaining that he had not read his statement thoroughly before signing it. Importantly for the purpose of the inquest, he corrected the order in which the statement records him seeing two men being shot, Brian Petticrew and another man whom he later found out was John Dougal. I have addressed this further below. His evidence to me was that he had explained his evidence on this to my investigator before the statement was made but that the statement prepared for him was incorrect and he had not picked this up (i.e. he contended there was an error in the draft statement rather than his having changed his view from what he had told my investigator).

9.69 Mr Clarke lived in one of the brick houses which he said were known locally as 'the Springhill houses' and, according to him, his house was only 30-40 feet from Corry's wall. Like other witnesses, Mr Clarke described the perimeter wall as huge with timber planks on top (subsequently replaced with grey railings) above which were sheds with apex roofs. Prior to the ceasefire, Mr Reid did not recall a lot of trouble, stating that, if anything, it was sporadic.

9.70 Mr Clarke recalled watching the trouble in Lenadoon on the television on 9 July. He described Westrock as quiet and recalled playing football on the street with Martin Petticrew. Mr Clarke said that, had there been any trouble, they would not have been out playing. In the early evening, he was unsure of the precise time, he

said his mother shouted out to Martin and him that she was looking for something from the shop. He said he would usually have gone to May's shop but that it closed around 8.30 pm to 9.00 pm on Sundays and so they were going to Kathleen Clarke's house at 38 Westrock Drive, where she had a house shop. He timed his departure of going to Kathleen Clarke's house shop at around 9.00 pm, basing this on the fact that May's shop was closed. He described the evening as a wee bit dusky but still a lovely summer's night.

9.71 Mr Clarke detailed the journey he and Martin took, which included talking to their friend Michael Macklin, who was in an upstairs bedroom of his home at 53 Westrock Drive, over the alley between Nos 51 and 53, as they walked past. Mr Clarke confirmed that Martin Petticrew was not with him at all times during the events he described. He stated there were a couple of times when Martin would have been approximately 20 or 30 feet behind him, adding that, to be honest, he was "a lot nosier" than Martin.

9.72 Mr Clarke said that as he got to the back garden of 43 Westrock Drive, at the small wall to the right of the electricity box, he heard four to five shots which came from behind him. (In the maps prepared by Mr Vannan, this electricity box is to the northwest of the Herald's bungalow at No 47.) He said that Martin had gone back to say something to Michael Macklin at this point. Mr Clarke stated that, because of the shots, they ran back towards Nos 51 and 49 (those being the houses opposite the electricity box). His evidence was that he was nearly certain the shots came from behind him, explaining that he could clearly hear them coming from behind him. At this point Mr Clarke said he was no more than 100 feet away from Corry's Yard. He described the shots as quite clear to hear, even stating that he could hear the echo of the shots which he believed meant they had been fired from one of the sheds.

9.73 Mr Clarke stated that, after hearing the shots, he looked down toward Westrock Drive and saw two cars travelling in the same direction, one behind the other, along Westrock Drive towards the Springhill houses (i.e. travelling west). The cars were a blue car, which was the first one he saw, and a light-coloured car. He did not know who the owner of either car was. The cars came two to three minutes after the initial shots he heard. The blue car stopped. Using a map prepared by Mr Vannan for the inquest, Mr Clarke described the first car, the blue one, stopping about the lamppost (to the southwest of the Herald's at No 47, to the west of the turning circle). The light-coloured car was about 100 feet behind the blue car, coming up the road towards it. Mr Clarke continued that, within about 30 seconds, the driver's door of the blue car opened, a man got out and more shooting started. At this time, Mr Clarke stated he was between Nos 51 and 49, which he estimated to be around 30 feet away.

9.74 Mr Clarke was asked if he had heard car horns or sounds being made from the car. He stated there was no noise at all except for the gunfire, describing it as one of the most peaceful nights he could remember in Springhill and Westrock.

9.75 He then described a man getting out of the first car and being shot. He stated that the man opened the driver's door of the car and as he stood up, powder and dust came off, he believed, the left side of the man's head and he sort of fell back against the car and slid down. Mr Clarke stated the nearest thing to what he witnessed was the video footage of the assassination of John F Kennedy. (In Mr Clarke's statement he had indicated that this man was getting out of the second car.) In his statement, Mr Clarke indicated that he did not know who the man was, later finding out it was Martin Dudley. Describing his vantage point, he stated that he had a clear view of the cars from where he was, explaining that there were no fences on the gardens and there were few cars about in those days.

9.76 Mr Clarke said he stood there for a couple of minutes, not knowing what to do. Martin was to his left, behind him. He said he then saw a guy in a denim jacket who he recognised immediately as Brian Petticrew. (At this point, he was still in and around Nos 51 and 49 and Martin was not with him at this point; he was still talking to Michael Macklin.) Mr Clarke described Brian Petticrew as emerging from in between the McCourts' at No 62 Westrock Drive and the Fosters' at No 84 (i.e. from a passageway between the back gardens of two rows of the Springhill flats) and sprinting across the Tutons' back garden (No 60) towards the blue car. Mr Clarke's opinion was that Brian Petticrew was going to try to help people getting shot at the car.

9.77 Mr Clarke said there was then some further shooting. Brian Petticrew stumbled and went down on his hands, as if he was about to fall but his hands stopped him. As he was coming back up, there was a further five or six shots and he went over again. Mr Clarke said he saw Mr Petticrew shot twice and he (Petticrew) was in the Tutons' back garden at this point. He was "100%" on that. He described Mr Petticrew as being "very, very, close" to where the blue car was parked and the locations where Mr Petticrew and Mr Dudley were shot as also being "very, very close". He confirmed the shooting was coming from the exact same place as it had been earlier which, to the best of his knowledge, was Corry's Yard; and, further, that Mr Petticrew was shot on two separate occasions. Mr Clarke then turned to his left and ran over to tell Martin, who was stood against the wall at the back of No 43, that his brother had been shot. (In his evidence to the inquest Martin Petticrew did not say that Richard Clarke told him that Brian had been shot. However, Mr Clarke said this in his oral evidence, which was after Martin Petticrew had given his evidence, and it does not appear that Martin Petticrew was asked how he learned that his brother had been shot).

9.78 The witness went on to say that, not even a minute after Brian Petticrew was shot, he saw a guy in a green jacket running across the grass, maybe 50 feet from Brian Petticrew. The man had his head down lowish, as he was running towards Mr Petticrew. There were then about three shots, and this man went down and never got up. He confirmed this man fell at Tutons' garden, as Brian Petticrew had. He later learned this person was John Dougal. Again, Mr Clarke stated that the shooting was coming from the same direction as before, which he believed to be

from Corry's Yard. Mr Clarke was quite sure this man was wearing a green jacket, stating that it ended up in his house and his mother washed it after the man was shot.

9.79 Mr Clarke was questioned about the direction from which this second man running towards Brian Petticrew had come. It was his evidence that he thought the man had come from between Nos 84 and 86 (those being opposite the Petticrews', to the west), i.e. the alleyway between the Springhill flats. His evidence was that this person was coming across the Tutons' garden the way Brian Petticrew had been, explaining that because the bungalows were so close together the Tutons' garden spilled into the McCourts' front door at No 62 and the alleyway, although he could not say whether this person followed the same general path as Brian Petticrew.

9.80 In a map appended to his statement, Mr Clarke had marked the approximate locations of where Martin Dudley, Brian Petticrew and John Dougal were shot. He placed all three close to each other, not in the turning circle but further west of it, in the area between the Tutons' at 60 Westrock Drive and the McCourts' at No 62. He placed Brian Petticrew just to the northwest of the Tutons', Martin Dudley to the west of him and John Dougal to the west of both, he being the closest to No 62. In response to questioning from Mr O'Hare, he stated that Mr Petticrew was shot within a 20 feet square radius of where he had marked on the map.

9.81 Mr Clarke said he and Martin tried to get to Corry's wall so that they could run along it and out of the area. He described their journey past the Tates' at No 33 and the Dohertys' (the property at 16 Westrock Drive on a map prepared by Mr Vannan, although the witness did not believe this numbering to be correct) until they got to the McCabes' at No 31 Westrock Drive. (He also marked the route of this journey on the map appended to his statement). As they got to the McCabes', he ran across the road and could hear more shooting and could see what he described as "like bits of concrete" hitting the ground about 20 feet from his left leg. As he ran on down towards the Gargans', his friend Martin was lying in the McCabes' garden and so he went back, lifted Martin up and grabbed his hand. As they went back across the road, there were another three to four shots and he could see bits of blue wood coming off the blue fence at the Reids' house, which was to the left of the Gargans'. He believed this gunfire also came from Corry's Yard, saying that "you know when someone is shooting at you". They ran and shouldered against the Gargans' door but it was locked. He then saw Kathleen Clarke come out of her house at the bottom of the row, No 38, waving her hands and shouting. He could not hear what she was saying but they ran to her house where she took them in and put them under the shop table.

9.82 Mr Clarke said he remained at Kathleen Clarke's house until 10.00 to 11.00 am the next day, explaining that he was unable to get home because of the shooting. He recalled, while under the table, hearing people discussing knocking a hole in the wall of Corrigan Park. He believed different people came in. He could hear their

voices and they were telling people inside what was happening outside. He thought someone came in and said something about Brian Petticrew.

9.83 In his statement, Mr Clarke stated that he did not see any gunmen on the street on 9 July 1972.

9.84 Later the next day it was quiet and so he and Martin Petticrew went back out to play. He saw blood on the road on Westrock Drive. He heard then about John Dougal, Paddy Butler, Fr Fitzpatrick and David McCafferty, whom he knew well, stating that John Dougal came from a very quiet family. Mr Clarke said that at some stage when at the back of the Petticrews' bungalow that day, shooting started and he ended up stuck at the Petticrews' house all night. He recalled that there was a hole cut into the back bedroom wall and this was how people got out of the house. On this second day, he stated that he heard that a man called Robert Nesbitt had been shot. He further recalled seeing someone lying on waste ground outside Corrigan Park near the Campbells' house at 54 Westrock Drive.

9.85 Mr Aiken put to Mr Clarke evidence that a machine gun was used in and around 53 and 55 Westrock Drive, close to his home, on 10 July. (This was consistent with what Thomas Reid had said.) Mr Clarke had no recollection of this, although he reiterated that he had stayed in Kathleen Clarke's home overnight on 9 July and in the Petticrews' overnight on 10 July. Mr Clarke said that on the third day the trouble was even worse; and he and his family were then put on a bus and taken to Navan Army Camp.

9.86 In response to questions from Mr Aiken as to whether he knew or understood people who lived around him to be in unlawful associations in 1972, either at that time or since, Mr Clarke relied on his privilege. He was asked about a plaque in which a John Clarke is named, since the witness had a brother called John. The plaque says it is "in proud remembrance of all those who assisted, resourced and gave selflessly to the Republican Cause" (although it is not clear what precisely is meant by this) and lists a range of people. Mr Clarke said he had never seen the plaque but it could be referring to his brother, although there were a number of John Clarkes and, while his family was very Republican-minded, they were never involved in anything. He was not aware of his brother being involved in an unlawful association.

9.87 Mr Clarke appeared firm in his recollections, even suggesting at one point that the events were as crystal clear as it was today. As appears shortly, his recollection of events is much more detailed than those of Martin Petticrew who was with him that night. Mr Petticrew did not purport to see the shooting of anyone. His evidence was similar to that of Mr Clarke in terms of their journey along Corry's wall, ending at Kathleen Clarke's house. However, his evidence did not address any of the key events in relation to civilians being shot which were described by Richard Clarke.

9.88 In July 1972, Martin Petticrew was also 10 years old and lived with his parents and nine siblings, including his older brothers Brian and John, at 56 Westrock Drive. Mr Petticrew provided a statement to the inquest and gave oral evidence on 1 and 7 March 2023. Describing the location of the family home, Mr Petticrew stated that the front door of the aluminum bungalow looked onto the front of 48 Westrock Drive (Bridget Maguire's house). The back door, which was at the side of the house, faced 58 Westrock Drive (Bart Meenan's house). Their immediate neighbour was Kate Campbell at 54 Westrock Drive, whose bungalow joined their house.

9.89 Mr Petticrew also described the wall of Corry's Yard, made of breeze blocks with timber along the top. He estimated there to be 5-6 sheds inside and that, from the yard, it was possible to see across the estate to Corrigan Park and likewise from Corrigan Park to Corry's Yard. He said the children used to play around Corry's Yard and played football in the circle near Nos 60 and 47 Westrock Drive (Tutons' and Heralds').

9.90 Mr Petticrew remembered 9 July 1972 because of what happened to his brothers and others. It was the summer holidays and he was allowed to stay out a bit later. He remembered the ceasefire, describing things in Springhill and Westrock as quiet. Prior to the ceasefire he recalled there would have been a lot of shooting in the area. Mr Petticrew described the night of 9 July 1972 as nice and recalled going to Ricky Clarke's house (referring to the witness whose evidence is summarised above).

9.91 Mr Petticrew recalled he was in Ricky's house when Ricky's mother called them to say that it was nearly 9.00 pm. (Mr Petticrew did not expand on why Mrs Clarke called the two or why they left, but from Mr Clarke's evidence they were sent to the shop.) He said that the two of them walked along the edge of Corry's wall. As they got to the Tates' bungalow (No 33) he heard four or five shots. Mr Petticrew said he and Ricky looked at each other; he thought nothing of it and walked on. He could not say where the shots had come from, only that they were loud. As he got to Peter McCabe's garden (which other evidence in the inquest suggested was No 40 Westrock Drive but which Mr Petticrew said in evidence was No 31) he described the shooting as very heavy and frightening, with the result that they hid in the McCabes' garden.

9.92 Mr Petticrew continued that at some stage there was a lull. He looked out and could see Harry Gargan's back door open, so they went onto the road to try to get to his house, which was opposite. However, as they got to the middle of the road, the door shut and they were stuck in the road. Mr Petticrew recalled that he looked up the road and could see two fellows lying outside the Heralds' house. He did not know if they were injured; it looked to him that they were taking cover at a lamppost. He also saw a man "hanging out of a car door like backwards and there was blood coming from his head." He did not know who the man was but heard

later that it was Martin Dudley. Mr Petticrew could not recall the colour or type of car, advising that, as he does not drive, makes of cars do not mean anything to him. He was asked during his evidence whether he saw one or two cars and he said that there was one car. During his oral evidence Mr Petticrew confirmed that he did not know who the two men outside the Heralds' house were. When asked if anyone had indicated to him in the years since who these men might have been, he said that he had never spoken about it as it was too hard.

9.93 On a map appended to his statement, Mr Petticrew marked a number of locations. He positioned the two men taking cover at the lamppost as being at the northeast side of the turning circle, the nearest bungalow being the Cahills' at No 39. He positioned Martin Dudley on Westrock Drive, on the road between the Heralds' at No 47 and the Tutons' at No 60. He marked his own position at the time he saw Martin Dudley to be on Westrock Drive, on the road between the McCabes' at No 31 and the Gargans' at No 44.

9.94 Mr Petticrew continued his evidence saying that heavy shooting started. He was still in the middle of Westrock Drive on the road and described seeing bullets ricocheting off the ground near them, which left strike marks on the road for years. He confirmed they had their backs to Corry's wall and, as far as he knew, the bullets were coming from behind them. He was asked during his oral evidence whether he saw his brother or John Dougal. His evidence was that he had not, stating that he was in the middle of Westrock Drive and only looking up the street while his brother was shot at the Meenans'.

9.95 Mr Petticrew said he then heard a voice shouting, "Run for your lives or they will kill you." He and Ricky ran to Kathleen Clarke's house (38 Westrock Drive) where Mrs Clarke took them in. They were put under a table which was covered with a tablecloth, given blankets, pillows and sweets and told to stay there. Mr Petticrew stated they remained there until, he believes, around 5.00 am. It was daylight when they left.

9.96 While at Mrs Clarke's, Mr Petticrew recalled that his mother arrived at some stage, having earlier been at the bingo in the Westrock Community Centre. She lifted the tablecloth and asked if they were OK. He remembered a male voice telling his mother that John Dougal was dead and Brian was badly injured. His mother went mad and wanted to go home; everyone was trying to get her to stay as there was still shooting outside, however she told Martin to come. He recalled a tall man with blonde hair who told them they would have to duck down and run across to the bungalow behind and then to the Campbells' bungalow when he told them to. When the shooting stopped, this man shouted to run; and so they ran to the Campbells' and got into their home through a hole in Mrs Campbell's back bedroom wall. Mr Petticrew confirmed he did not know who this blonde-haired man was.

9.97 Mr Petticrew stated there were a load of people inside their home, including Felix Cush, Mr Muckian, Tony Stewart, Bobby McCrudden, Goose Russell, PJ Walls,

Moira Walls, Gil McShane, Teresa McGuinness and his brother John. Mr Petticrew went into the living room where John shouted at him to get under the bed in the bedroom. He said that he now knows John had been cleaning blood from Brian and John Dougal in the living room.

9.98 Mr Petticrew went on to describe his father returning home and speaking with his mother who wanted to go to the hospital to see Brian. However, he said the house was being shot at and he recalled a shot came through the ceiling. The resulting hole remained for years, as his father would not fill in it as it was a reminder of what had happened.

9.99 Mr Petticrew stated that at some stage Jim Bryson came in and told his mother she could not go to the hospital. (In answer to some questioning he denied that Mr Bryson was directing them but said he was just advising them. He knew Jim Bryson to see and recognised him when he was in their home.) His mother and the children were to be brought to St Peter's School. He said that, about an hour later, his mother, Michael, Bernadette and he were on their way to St Peter's. He described their journey through their house, the Campbells' and down to Corrigan Park, estimating that this took place around 7.00 or 8.00 am. Mr Petticrew said that a hole had been cut in the wall at Corrigan Park, through which they entered the park. There were a load of women and children coming to the park, describing it as similar to a mass evacuation. In the park, Mr Petticrew saw men with guns and the tall, blonde-haired man who was directing people into the park. He confirmed this to be the same man to whom he had previously referred, although stating that he was not near the men with guns. Mr Petticrew described those in the school, where beds had been set up, as mainly women and children from the estate. However, he said his mother could not settle and so they returned home.

9.100 Mr Petticrew said they stayed in the house for three days and nights where he and his siblings lived under the bed as a result of the shooting outside, including shooting at their home. He said this shooting was coming from Corry's Yard (although it is unclear how he could have known this). At one stage there was a lull for a couple of hours and they thought it was over. He went out to play with Ricky Clarke but, as they played, the shooting started again and Ricky had to stay at his house as he could not get home.

9.101 In his statement, Mr Petticrew noted that he had been asked if he recalled hearing any car horns when the shooting started. He stated that he did not, recalling only shooting and silence.

9.102 Mr Aiken asked Mr Petticrew if he knew whether his brothers John and Brian were involved in a paramilitary organisation, in respect of which he relied on his privilege against self-incrimination. He was also asked if he had any knowledge of what his brothers were doing on the evening of 9 July. He replied that John was trying to save people's lives and Brian was shot going to the aid of an injured man. (From his account, however, Mr Petticrew, who did not see these events, did not

have first-hand knowledge of this.) He again relied on his privilege when asked if he had seen anyone with guns in Westrock Drive on the evening of 9 July. Mr Petticrew was asked a range of questions about murals and plaques in the area, and as to the involvement of his sister Anne-Marie with Cumann na mBan and her death. These were similar to the line of questioning pursued with Brian Petticrew, discussed further below.

9.103 With regard to others shot on 9 July, Mr Petticrew said that he only heard about Margaret Gargan a couple of days later. He said that she was a good friend: she had a Chopper bike of which they were all envious and she taught him on it at Corrigan Park. He described her as someone who dressed like a tomboy and kept her hair short.

9.104 I note that, although Mr Petticrew was with Mr Clarke for most of the time directly relevant to the events at issue in this inquest, unlike Mr Clarke he did not purport to see the interaction between two cars (only seeing one car later, when up the street, with someone hanging out of the car door); nor did he purport to see the shooting of his brother Brian and/or of John Dougal, of which Mr Clarke gave evidence. There was a basic consistency between the two witnesses' evidence as to their route along Corry's wall, to the McCabes', Gargans' and Clarkes'; but no obvious explanation as to how or why Mr Clarke saw or recalled much more of the incident at or near the car or circle than did Mr Petticrew. Mr Clarke's potential explanation for this was that Mr Petticrew was still speaking to their friend Michael Macklin. However, if Mr Petticrew was at that location, it seems to me he would still likely have been able to see what was happening towards the Tutons' house, across Joe Herald's garden. Perhaps more importantly, Mr Petticrew appears to describe the first shots in the whole incident as occurring at a later stage in their journey, when they were at the Tates' bungalow, in a completely different location from where Richard Clarke said they were when the shooting commenced.

Johanna McCullough

9.105 Johanna McCullough provided a statement and oral evidence to the inquest. She was called on 8 November 2023. Ms McCullough had also provided an account to KRW Law in 1999.

9.106 In 1972 Ms McCullough was 14 years old and lived with her family at 5 Ballymurphy Crescent. She said she would meet and hang about with her friends in the area of the Ballymurphy shops, known as 'the bullring', or in Springhill. She said there was a lot of trouble in the area in 1972, describing constant house raids, saracens patrolling the streets and armed patrols going in and out of houses. She was not aware of a ceasefire in 1972.

9.107 On the evening of 9 July 1972, Ms McCullough said that she had just finished cleaning the kitchen after dinner and arranged to meet Bernie Callaghan, who lived in Divismore Park. While she could not recall the time, she estimated it to be around

7.00 pm, explaining that supper would have been at 6.00 pm and then she would have had to clear up. She described their journey after they met and before they reached Springhill Avenue, nearly opposite the shops. They sat on a wall which ran along the front of the shop. (In a map appended to her inquest statement, Ms McCullough marked the position of the shop as just below the southwest corner of Corry's Yard, just south of the Springhill Community Centre.)

9.108 Ms McCullough said that they would not have been at the shop long when shooting started. Someone shouted at them to get down or they would be shot. They both fell down off the wall and made their way along it over to the brick houses (marking this position on her map as the brick houses to the far west, closest to Springhill Avenue.) She recalled that Bernie and she were lying between the house doors to protect themselves from shooting which was coming from Corry's Yard. Someone shouted to move further along. She marked the location to which they then moved on her marked map, that being between 63 and 57 Westrock Drive.

9.109 From this position, Ms McCullough said she could see a man running along the top of the wall whom she considered to look like a soldier. She could see him from the waist up. She described him as wearing army clothes and a bulletproof vest, though not a helmet or beret. He was dark haired, aged in his 20s and had a clean face. Ms McCullough continued that she could see the tops of the heads of other soldiers sitting along the area where this soldier was running; she assumed they were sitting on wood piles. She said she heard the soldier on the wall shouting, she did not know what, and he pointed his rifle. She was almost sure he fired from the rifle because he aimed it into Springhill towards the chapel and then shots were fired, although she admitted that it was possible that the shots came from the other soldiers. He was screaming something, she did not know what, nor whether it was into the area or shouting to other soldiers. By the time she got further into the Springhill houses, the soldier had moved along the wall in the same direction and there was shooting into the gaps between the houses. She could see the bullets hitting the ground in between the Springhill houses. Ms McCullough said there were people standing in these alleyways but there was nothing going on anywhere around, it was just another normal day.

9.110 When the shooting stopped for a short while, she and Bernie ran down towards Westrock Road, crossing the road. She recalled someone in the back garden of the end bungalow who told them to run when the shooting stopped again. They did, running to the Petticrews' bungalow and entering through the side door. The only people she could remember being in the Petticrews' were Mrs Petticrew, John Petticrew, Catriona Petticrew, the younger Petticrew children and Teresa McGuinness. When inside, Bernie and she were shown to the living room. Ms McCullough said she could remember looking out the living room window and seeing people lying outside the side door of the house opposite, 48 Westrock Drive. She said John Dougal was one of the persons lying outside the door of No 48, taking shelter from the shooting. There were other people there, six to eight she estimated. She did not see Brian Petticrew with him. Someone from No 48 shouted over that

Martin Dudley had been shot. She described chaos in the house, with a lot of screaming and crying.

9.111 Ms McCullough continued in her statement saying that she then saw John Dougal try to cross from No 48 to the Petticrews' bungalow. They were shouting at him to go back. He tried a couple of times and, on the last time, he was shot and fell at the position marked 'X' on Map JMcC3 which was appended to her statement (this position is almost exactly halfway between the Petticrews' bungalow and No 48 opposite). When John Dougal was shot, he lifted off the ground and fell onto his back. She remembered that he had a coat with a hood and the hood had come up over his head a bit. Ms McCullough confirmed that John Dougal was neither running up towards Corry's Yard nor down away from it. In her recollection, John Dougal attempted to come across to the Petticrews' on his own.

9.112 Ms McCullough said that John Dougal lay outside for about an hour or more. She believed he was alive, as she saw his hand move and believed she heard him cry out. (I note that, as discussed in Chapter 8, Prof Crane's opinion was that death would have been rapid but not immediate.) The witness said that people in both bungalows, the Petticrews' and No 48, were looking out the window at him. No one could get to him because of the shooting. She stated that, when it got dark outside and had quietened down, his body was brought into the Petticrews', recalling that the people carrying him in had a hold of his coat and laid him on the living room floor. She described Teresa McGuinness and John Petticrew giving him the kiss of life and trying to resuscitate him.

9.113 Ms McCullough could not remember seeing anyone else injured or being brought into the Petticrews. (I found it odd that she did not also recall Brian Petticrew being in the bungalow who, other evidence indicated, was also there before John Dougal was brought in and was also seriously injured.) She indicated that it was not her evidence that this did not happen; rather, she could not recall this and was focused on John Dougal having been shot. She could also not recall seeing any ambulances; however, she did recall people in the house discussing ambulances, saying they could not get in because of shooting from Corry's Yard and so they needed to get people out of the house. In order to do so everyone helped to break down a wall into the bungalow next door. She said this was because they could not go out the front of the house, as anybody who made an attempt to move to the front of the property was shot at. She said the shooting was coming from Corry's Yard. Therefore, the only safe way was to go out the gable end of a house which did not face anywhere. She went through the hole and out the side door of the house which faced Corrigan Park. She could not recall what time this would have been at but said it had started to get dark.

9.114 Outside, at the back door, she said there was a man with a gun, like a handgun, who was telling people to run in a line across to Corrigan Park, where another man lifted them over the wall. She did not know these men. People then crawled on their bellies along the park to the Britton's Parade area, climbed out and

went into St Peter's School assembly hall. Ms McCullough remained in the school for a full day before she got home.

9.115 Ms McCullough knew all of the people who died on 9 July. She described John Dougal as well known to her, stating that he was a good-looking fellow whom all the girls chased after. Fr Fitzpatrick was her local priest; Margaret Gargan was in her year at school; she knew Paddy Butler's niece; and David McCafferty lived close to her.

9.116 Ms McCullough was asked by MoD counsel whether she knew, at the time or since, anyone in and around the Westrock Drive or Westrock Parade area who may have been in an unlawful organisation on 9 July 1972. She relied on her privilege and declined to answer.

9.117 This witness had provided one previous account, to KRW Law in June 1999. A typed note relating to this was available. She said she gave this account in a house in Springhill but that she was not given a copy. She explained that she had been upset giving this account, as she had not spoken about the matter before. She could not recollect most of what had happened that day and felt that she had to make the statement and say what she thought she knew. She said in her oral evidence that it took her a while to work out what she now remembers; and that there were things she now knows in her memory, which are different to what was recorded in the 1999 account.

9.118 There were some notable differences between Ms McCullough's account in 1999 and the evidence she provided to the inquest in respect of a number of important matters. In her 1999 account Ms McCullough said that they went to the Petticrews' to call for Catriona Petticrew and it was *while there* that the shooting started. When asked about this by Mr O'Rourke, she said that her memory now was that that was *not* where she was when shooting started but, rather, it was where she ended up.

9.119 It was also stated in the 1999 account that it was as they walked up along Westrock Drive that she saw a "gunman" on the wall at Corry's Yard and, while the description of this man correlates to that in her inquest statement, in the earlier account she stated that she could not actually see a gun. Ms McCullough confirmed in her oral evidence that she was at the Springhill houses when she saw this gunman, as stated in her inquest statement, and that she did see a rifle. She was asked why she would describe someone as a "gunman", to which she answered because she could see a gun. I considered the debate about this issue in her evidence to be somewhat arid. The note of instructions from 1999 appears to have been somewhat poorly drafted but I did not consider there was a discrepancy in reality between the two accounts about her having seen an armed soldier on the wall. More importantly, there was no reference to a soldier or the army shooting down the alleyways in the 1999 account, which she described in her oral evidence. Mr

O'Rourke asked the witness if she may have been influenced by what others said. She refuted this, stating that she was providing her genuine recollection.

9.120 Ms McCullough did describe the shooting of John Dougal in her 1999 KRW account, which she said was a couple of hours after she had entered the Petticrews' house. In that account she had said that he was at the corner of the bungalow facing her (consistent with her more recent evidence); and that he ran across to try to get to them and was shot running across the pathway. She thought he had been shot in the back. He was lying face down on the green in front of whichever bungalow it was. She said that he was moving and shouting for somebody to come and help him. There was a lot of attempts to get to him but nobody could get out. Ms McCullough said that, by the time he was brought in, having lain for an hour or two, it was getting dark and he was still alive. She could not recall if he died in the house; but believed he did.

9.121 Regarding the man with the handgun outside the Campbells' bungalow, it is recorded in the 1999 account that he said to her "when I fire youse run"; and "when I fucking fire run!". It is then recorded that he shot into the front of Corry's. When asked to account for the discrepancy, first, in relation to what is recorded as having been said to her by the man, she said nothing shouted was directed towards her, although it was pandemonium with people shouting all sorts of things; and that this comment was not made. She stated that her recollection now was as set out in her inquest statement. Ms McCullough said this had been the first time she had spoken about these events, which occurred when she was a 14-year-old child. As a child she had heard shooting and had seen a man with a gun and so assumed he had fired. Now, at the inquest, she was able to clarify that she did *not* see him shoot, nor lift the gun to shoot. She heard shooting from Corry's Yard. It was put to Ms McCullough that it could be suggested that she was changing her evidence to protect people in the locality from any liability for what happened. She denied this, stating that she was just telling it how it is now in her recollection. When asked to provide a time when she saw the man with the handgun, Ms McCullough said it had started to get dark but was not dark. She could not remember who else was with her at this point, other than Bernie Callaghan, John Petticrew and Teresa McGuinness (although she did not know if the latter two were in fact with her). (Ms McGuinness' evidence was that she remained in the Petticrews' bungalow until the following morning.)

9.122 Throughout her evidence, Ms McCullough purported to have a better memory at this stage than she did previously (in particular, when she gave her earlier account in 1999). She said things such as that it had taken a while for her to work out what she remembers now. Her earlier recollection had been blurred. When it was suggested to her that recollections do not usually improve with time, she said that she worked the opposite way (at least as regards her earlier statement). She put this down to the traumatic nature of the event. In light of that, it took her a while for the details to come out.

9.123 I am afraid I had concerns about this witness's reliability on a number of points. I do not consider that she was actively seeking to be dishonest. There was a number of factors, however, which gave me considerable cause for concern on certain matters. First, there were discrepancies between her 1999 statement on the one hand and, on the other, the much more recent statement she gave to the inquest and her oral evidence, including about basic facts of her narrative. I did not find convincing her adamant that her memory had significantly improved over the years. I accept that, where someone has suffered a traumatic incident, it may take some time for them to be able to recall its detail and articulate their experience. However, her insistence that she was not able to do so 27 years after the incident but could now much more clearly recall details 51 years after the incident was unconvincing. Second, her description of John Dougal's movements at the time he was shot are inconsistent with those of several other witnesses who also purport to be eyewitnesses to this, although I recognise the possibility that they could be mistaken (and this witness has been consistent in *this* element of her account). Third, there is a clear factual dispute between her and Bernadette Callaghan, whose evidence is addressed below and whom Ms McCullough said she was with at all material times on the evening of 9 July 1972. I return to some of these conflicts of evidence below.

9.124 As MoD counsel put to the witness, her story changed from mentioning in 1999 a soldier who did *not* fire and a civilian gunman who *did* fire to now mentioning a soldier who *did* fire and a civilian gunman who did *not*. I consider there to be a strong likelihood that Ms McCullough's evidence, consciously or subconsciously, has evolved to fit with other versions of events which she has heard. I also found her evidence unconvincing as to why she included comments from the civilian gunman in her 1999 statement (clearly indicated in quotation marks) which she completely disavowed in her evidence to the inquest. It seemed to me likely that this was an instance of conscious retreat from her earlier account because it did not fit with the narrative which she now wished to present.

Bernadette Callaghan

9.125 Bernadette Callaghan, the next witness, also provided oral evidence on 8 November 2023, the same day as her childhood friend Johanna McCullough. She had also given a written statement to the inquest. Ms Callaghan had also previously given an oral account at the St Aidan's Inquiry. In 1972 Ms Callaghan was 13 years old and lived with her family at 41 Divismore Park, which she described as running adjacent to Springhill Avenue, about 50 yards apart.

9.126 Ms Callaghan recalled that the ceasefire had broken on 9 July 1972. There was a lot of attention on the Lenadoon area but she described it as quiet in her area. In her statement she said she believed she was at Springfield Park alone when shooting started, which she stated was coming from the Springmartin flats. She said that everyone in the park scrambled and her neighbour, Emma Kane, saw her and told her to go home. She remained at home for the rest of the night. She corrected this in

her oral evidence, confirming that she had been confused with events in Ballymurphy the year prior. She stated that on 9 July 1972 she was at home and did not see *anything at all*. She heard shooting coming from Springhill; she was unsure of the time but believed it could have been late afternoon or evening.

9.127 Ms Callaghan confirmed that she was friends with Johanna McCullough, however she stated that she was not with Johanna until the next day. She did have a memory of being at the shops with Johanna amidst chaos. When asked when this was, she said that she was always with Johanna at the shops, every day and every night. It was put to her that Johanna described shooting and the two of them taking cover at the Springhill houses. Ms Callaghan said that she remembered taking cover on numerous occasions but could not specifically say it was with Johanna at that time: she had no memory of this. She was asked if she had ever spoken to Johanna about these events. She said she did not remember talking to her about this, explaining that such events were a daily occurrence with people being shot at the time, so much so that there nearly was not time to talk about it.

9.128 On 10 July 1972, she heard from neighbours that a priest, Martin Dudley and Brian Petticrew had been shot. Catriona Petticrew was a good friend of hers and so she went to the Petticrew home to see if she could help. She was clear that she had not been at the Petticrews' the evening before; rather, she had gone down after hearing what had happened to see the family and her friend. Ms Callaghan said that when she set off for the Petticrews', there was no shooting but the atmosphere was tense. She remembered coming up to the back of Corrigan Park and coming out at the McGuinness' bungalow. She then intended to go across to the Campbells' bungalow which was attached to the Petticrews' but shooting started. A man, who she did not know, came along and was going to go across the open ground with her. She estimated the time of day to be late afternoon or evening. The man ran first and she ran behind him. He was then shot and fell to the ground. She said that the gunfire, which she described as sniper fire, was coming from Corry's Yard, stating that "if anybody moved, that was it, it was over." She said she did not see any gunmen in the area on 10 July.

9.129 Ms Callaghan said people at the Campbells' were shouting to get down, so she lay down flat, staying there for a while. When the shooting stopped, she ran to the Campbells' side door, leaving the man who had been shot. Some people from the Campbells' then retrieved the man, brought him into the Campbells' house and administered first aid. There was talk about getting the man to hospital. She recalled Maureen McGuinness, Kate McGuinness and Betty Kelly were at the Campbells. At some stage, she went through the hole in the Campbells' bungalow into the Petticrews' before returning home.

9.130 Ms Callaghan was asked if she could have been in the Petticrews' on 9 July 1972 and could have seen John Dougal being shot. She stated that she did not, explaining that John Dougal was a good friend of hers and so she would have remembered this.

9.131 Ms Callaghan attended the inquiry at St Aidan's school, which she believed to have been around the year 2000. The portion of her account within the transcript of that event is incomplete. In this short account, Ms Callaghan recalls events on "the Monday afternoon", which I take to be 10 July 1972. She described a man being shot in front of her and that she was one of those who got him up after he had been shot. She states she thought the man was Anthony Quinn; but that she must have mixed him up with someone else, confirming in her evidence to the inquest that she had been wrong. It is put to her in the transcript that it was Robert Nesbitt. She believed he was shot from Corry's Yard.

9.132 There was clearly a conflict of evidence between this witness and Johanna McCullough, since Ms McCullough gave clear and repeated evidence that she was with Ms Callaghan during events relevant to this inquest which she witnessed. Ms Callaghan's evidence was that she saw nothing of relevance and was at home all evening on 9 July 1972. It is difficult to know what to make of this. I think it unlikely that Ms Callaghan would have forgotten being present at or about the time that John Dougal was killed; and I believed her in relation to this. (I found her evidence credible that she would have remembered the event because she knew John Dougal and also knew Catriona Peticrew, whom she went to see the next day.) It is, of course, possible that she has blanked her experience out of her mind in some way, or that she was being dishonest because (for whatever reason) she did not wish to give evidence of what she had seen that night. As noted above, however, I was inclined to believe her that she was not present. Assuming that to be correct, it undermines to some degree the reliability of Ms McCullough's evidence, since she would be wrong in a number of elements of her account which involved Ms Callaghan being with her at the time.

Patrick Butler

9.133 Patrick Butler gave evidence on 16 November 2023. I consider him to have been an important witness in several respects. His written statement for the purpose of the inquest was read and adopted. He had also given instructions to KRW Law on 2 August 1999 and a handwritten statement dated 20 October 2013.

9.134 He referred to the various exhibits attached to his statement which included a map marking the location where he said Martin Dudley got into and moved a vehicle. He also marked as 'B' the location where men from a second car went after the shooting and had tried to help Martin Dudley. I return to this below.

9.135 On 9 July 1972, Mr Butler was 13 years old and lived at 71 Westrock Drive. He had been playing handball in the street with Joe Heath and a couple of others. About 8.00 pm he saw Martin Dudley, who lived opposite him, get into a car which was facing his (Mr Dudley's) house at 68 Westrock Drive. With Martin Dudley was a Mr Mulligan from Westrock, whose first name Mr Butler did not know; and, he

thought, another man. He knew Mr Mulligan because he went to school with his younger brother. Mr Mulligan and Martin Dudley were about the same age.

9.136 The car Martin Dudley was driving reversed out of the space and drove (east) towards the bungalows. That car met with another car coming towards it and they both stopped in the road between the brick houses and bungalows. (In his 1999 statement, Mr Butler described this as “at the last bungalow”; and, in oral evidence, as “just short of Joe Herald’s house”, which is the last bungalow as you approach the Springhill flats.) Both cars were dark in colour, but he could not remember the make of them. The drivers were speaking to each other whilst in their cars. They had wound their windows down. Mr Butler did not know the driver of the other car.

9.137 The next thing Mr Butler heard was “a whole load of shots” which were coming from behind down the area of the ground between the bungalows and brick houses, where the electricity sub-station was located. The cars had only stopped for 30 seconds to a minute when the firing started. The car that had stopped alongside Martin Dudley drove off at speed. It stopped just up from his house and the people got out of it. There were at least two people in that car, and they came to the corner of the Rooneys’ house at 49 Westrock Drive to see if they could get across to help Martin Dudley who was hanging out of his car. Martin Dudley’s car was in the middle of the road. It remained static. Mr Mulligan who was in the front of that car seemed to get out first and managed to get to the Butlers’ house. Mr Butler described him as “a bag of nerves”. He did not know about the third person in Martin Dudley’s car.

9.138 Mr Butler said the shooting carried on and no one could get to Martin Dudley. He did not see John Dougal or Brian Petticrew from where he was. The persons standing by his house who were trying to get to help Martin Dudley mainly came from the Springhill houses.

9.139 Mr Butler said that Fr Fitzpatrick arrived in the street with Mother Teresa nuns. He tried to get to the car but could not, due to the shooting. Mr Butler’s father, Patrick Butler, who had been asleep upstairs in his home came downstairs and spoke to Fr Fitzpatrick. His father was sleeping after having been “at the clubhouse”. They (Fr Fitzpatrick and his father) then went down the passageway between the houses opposite the Butlers’ house. A few minutes later a guy came running out of the alleyway shouting that they had killed the priest. He did not know this man. Mr Butler tried to go down the passageway to check on his father but the neighbours stopped him. He said his father was wearing a blue t-shirt, blue suit trousers and black Oxford shoes.

9.140 Mr Butler said that the IRA then arrived on the scene; but he was not sure where they came from. There were two of them and he assumed they were the IRA as they had a gun. He did not know them and was not sure they were even from the area. They went to a position marked as ‘C’ on Map PB5 (the southeast corner of No 49); but every time a head was put round the corner to look at the timber yard shots

were fired at them. Mr Butler said that they then went down through the houses towards Corrigan Park and that they were able to get inside Corrigan Park and fire back at Corry's Yard from position 'D' marked on Map PB5.

9.141 Mr Butler recounted that there were people coming and going out of their house and a man, whom he did not know, reported that "that wee man Paddy Butler has been shot", not knowing that he was in the Butler house. The man tried to retract this when Mr Butler's mother "went mad". Later, Fr Donnelly arrived, around midnight, and told his mother that his father was dead.

9.142 Asked about his 2013 statement, which stated that "local units of the IRA arrived and tried to engage the soldiers", Mr Butler indicated that they tried to fire at the soldiers from Position 'D' on the map appended to his statement and from the GAA ground. This engagement continued for the next couple of hours until darkness fell. The statement describes an ambulance arriving and reaching the car containing Martin Dudley and getting him into the ambulance. It goes on to say that gunfire continued while this was happening and that it was mainly British gunfire. He said you could tell the difference between the types of gunfire. The IRA gunfire did not sound as powerful.

9.143 Mr Butler stated that he had not heard any gunfire when he had been out playing with friends prior to the shooting at the cars. He described it as a burst of shots and said that it sounded like it was coming from Corry's Timber Yard. He thought the burst of fire lasted 10 to 15 seconds. Mr Butler said he knew Mr Dudley's car but not the other car.

9.144 He was asked about this handwritten statement from 2013 in which he stated that, after the firing started, Martin Dudley fell out of the *passenger* seat of the car. This was inconsistent with his evidence that Martin Dudley had been driving the car. Mr Butler indicated that the handwritten statement was incorrect and that Mr Dudley had fallen out of the driver's side of the car onto the road. (Indeed, earlier in his 2013 statement, Mr Butler had clearly said that Mr Dudley himself had "pulled his car out onto the road", which had resulted in him having his game of handball interrupted.)

9.145 He was also asked about a statement he made in a video (which he thought was made in the early 2000s), now on YouTube, describing the events, in which he had referred to John Dougal being shot. Mr Butler indicated that that was something about which he had heard. He confirmed that he did not see John Dougal's body at any stage. He was also asked about his reference in the video to "cross-fire" and what he had meant by this. He stated that that referred to a time much later on and to the IRA returning fire that night. He himself did not know when John Dougal was shot, as he only found out about this the following morning.

9.146 Mr Butler thought that Fr Fitzpatrick probably arrived on the scene about 20 minutes after the firing started but could not tell exactly. There was still shooting

going on at the stage when Fr Fitzpatrick arrived. At that stage, the shooting was only happening when someone stuck their head out and these were intermittent, single shots.

9.147 Mr Butler was asked about what another witness had said about his father going to Corpus Christi to get Fr Fitzpatrick and he indicated that that was not his recollection; and that Fr Fitzpatrick arrived at his house with the nuns. He said that Fr Fitzpatrick was unable to get to Martin Dudley's car directly and that he therefore decided to go down between the Springhill houses and cut back towards the car. His father agreed to assist.

9.148 Mr Butler was asked for more details about the arrival of the IRA and he indicated that they were not wearing uniform and were in civilian clothes. When asked about when in the sequence of events the IRA had arrived, he indicated that Martin Dudley had been shot and that Fr Fitzpatrick, Dee McCafferty, John Dougal and Brian Petticrew had all been shot when the IRA arrived. "It was well over an hour maybe an hour and a half to two hours before the IRA had arrived on the scene". He said there were only two persons from the IRA that he saw and that they had a rifle. They arrived on foot rather than by car and from the direction of Ballymurphy. When asked about the reference in his statement to "local units of IRA" arriving and trying to engage the soldiers, which appeared to suggest more than two individuals, Mr Butler said he only saw two such persons that night. The reference to "units" had just been a figure of speech.

9.149 He further said the individuals from the IRA initially went to No 49 Westrock Drive and then disappeared up an entry between numbers 66 and 64. Every time they put their heads out, they were fired at; but he did not recall them firing any shots in return at the army. He did not see them going into Corrigan Park or returning fire from Corrigan Park but that was something he had heard afterwards.

9.150 When asked about his KRW statement and his reference to there being a gun battle raging, Mr Butler stated that this was probably two hours after the events had started. He did not know who was firing as they were out of his line of sight. He could not see what was happening but could hear it from his front door. He thought the firing was probably from Corrigan Park and Corry's Timber Yard. The "British" firing was from the army at Corry's and it had a high-pitched sound. There was a different sound of the firing from the IRA.

9.151 Mr Butler thought the ambulance arrived to assist Martin Dudley about 45 minutes to an hour after the initial firing started and, by that stage, there had not been any return fire. He was asked why, if only the army was firing at that stage (when Dudley was being put into the ambulance), he had said in one of his statements that the firing was "mainly" British gunfire and he said that nobody was firing back when the ambulance was trying to get across the road.

9.152 I asked Mr Butler whether he saw any of the persons in the cars which he had described in his evidence with weapons. He said they were all unarmed. When later questioned by Mr Aiken as to whether the persons in the car were actually unarmed, he said he did not see anyone with a gun.

9.153 Mr Butler was further questioned by Mr Aiken about the account given by his mother in the Springhill Massacre Booklet. He indicated that he did not recall any of the conversations referred to by his mother. He said that he was unaware of this account and had never read the pamphlet. He indicated that he knew nothing about redactions or alterations made in a subsequent version of the pamphlet.

9.154 It was put to Mr Butler that the soldiers said in their statements that there were four individuals in each of the cars and he maintained that there were three persons in Mr Dudley's car, which included Mr Dudley. The account provided by Martin Mulligan in his deposition at the 1973 inquest was also put to Mr Butler. In his deposition, Mr Mulligan recounted that he came upon the scene accidentally, walking home from Springhill Community Centre. Mr Butler said that that was not his memory as Mr Mulligan came out of Mr Dudley's house and got into Mr Dudley's car and drove off down the street.

9.155 When asked about how many people were in the other car (not Mr Dudley's), Mr Butler said that all he ever saw was two people. It was put to him that the ambulance driver who had attended the scene, Mr Thompson, found two persons injured at the scene, namely Martin Dudley and another youth (whom that witness did not know) and, having described two persons running back towards the Rooneys' house, it was put to him that this would be a total of four persons in that car. In response to this suggestion, he said he did not know.

9.156 Mr Butler was asked again about his earlier statement in which he referred to local units of the IRA arriving and asked did he know who was in the IRA in the area. He indicated the only people whom he knew were in the IRA were all dead and he had referred to local units of the IRA simply because they were armed. He said he did not see anyone from the IRA firing that night; but knew the IRA were shooting by the different sound of the shots. He did not recognise any of the men who came to the scene from the local IRA unit.

9.157 Mr Butler was asked about the time of the events that he was describing and indicated that it was about between 8.00 and 9.00 pm, perhaps between 8.30 and 9.00 pm. (I noted that, in his 2013 statement he had said he was playing handball until 8.00 pm; whereas in the earlier account recorded in the YouTube video around 1999/2000, he had said it was around 9.00 pm.)

9.158 I found Mr Butler's evidence largely credible. His accounts in his various statements were mostly consistent. He was someone who was prepared to speak openly about his own observations of IRA men who were on the scene that night. As to his observations in relation to the cars, I considered that he was well-placed to

give evidence about the car in which (he said) Martin Dudley was travelling, given his proximity to the location and also the fact that – since the Dudleys lived just across the street from him – he knew Mr Dudley well and recognised the car as his. He also explained how he would have known who Mr Mulligan was. He gave clear details in relation to this car’s movements, which he appeared to recall, including the detail that he and his friends had to stop their game of handball because of its movements. He had given precisely the same account in the much earlier YouTube video. However, he was further prepared to admit (particularly in relation to the second car but also more generally) that there were details about which he was unsure.

James Patrick Dougal

9.159 James Patrick Dougal is the brother of John Dougal. In 1972 he was 14 years old and lived at 91 Springhill Avenue. Prior to moving to that address the family had lived in Manor Street when John, his brother, was a member of the British Army Cadets. He gave evidence on 24 November 2023 and had also given two written statements to the inquest, one prepared by my investigator after interview and one through his own solicitors.

9.160 Mr Dougal emphasised that, before the Troubles broke out, his brother John had seen his future in the British Army. After the family moved to Springhill in 1969 his involvement with the cadets ceased, as his parents felt it was too unsafe to allow him to travel over to the Antrim Road where the army base was which John had attended. John left school at 15 years old and worked for a building company and then went to Casey’s Bottling Company.

9.161 On 9 July 1972 Mr Dougal said in his statement that he went to Lenadoon as he had heard that the ceasefire had broken and “there was a call put out for all young lads to go to the Lenadoon area”. He said in this statement that John was in town shopping. There was rioting in Lenadoon and he headed home about 6.00 pm and called into the Mulligans’ home on Whiterock Drive. The Mulligans were family friends, and he called there most days. (In oral evidence, he said he probably went home first and then went to Mulligans.) The witness was asked later about going to Lenadoon because the ceasefire had broken down, and he said that that was wrong as he could not have heard about the ceasefire breaking down because that happened later that day. However, he recalled a car going round asking people to go to Lenadoon and he had a vague memory of it having a loud speaker. A crowd, of mixed ages, went up. He did not now recall any rioting in Lenadoon when he was there, although he had mentioned rioting in his inquest statement.

9.162 Mr Dougal said he heard shooting coming from the Westrock area when he was at the Mulligans. The shooting was single shots which lasted 15 to 20 minutes and appeared to be coming from Corry’s Yard. He did not see this but that is the direction from which the sound was coming. He said that he needed to get home and set off along the dirt path at the bottom of the tin bungalows, along Corrigan

Park. He could hear people shouting to him to get down and that they were shooting from Corry's in the spaces between the bungalows in the open ground. He remembered someone saying that John Dougal had been shot and he was "in here", but he did not know where this was or who said it.

9.163 He panicked at this point and ran to the grey brick houses (which he had marked at position 'B' on a map appended to his statement, near 102 Westrock Drive, Brian Muckian's house). He stopped at a house where the Holdens lived (although in oral evidence he was less sure of who lived there) and was crying and a woman in the house comforted him. He did not recall seeing anyone at the bungalows. He went home the following morning, having stayed overnight in the Mulligans', since he could not face his mother to tell her what he had heard. Mrs Mulligan looked after him that night, which was the first time he had a cigarette. His cousin Hughie McMullan from the Lower Falls went up and told his mother that John was dead.

9.164 When he returned home the next morning, he met his father who was on his way to the RVH and told him to come too. They went to the morgue at the hospital and were met by two plain-clothes policemen, who kept asking his father if John was in the IRA. His father was very upset. John was in the morgue, fully clothed, and he was wearing a t-shirt, an open shirt, jeans and boots. Mr Dougal gave further evidence about the effect of John's death on the family.

9.165 He was later questioned about visiting the Mulligans' house on his way back from Lenadoon and said that Martin Mulligan was not in the house. He was referred to Mr Butler's evidence that he (Mr Butler) had seen Martin Mulligan come out of the Dudleys' house and get into a car. Mr Dougal indicated that he was not surprised by this evidence but that, since Martin Mulligan was not in the Mulligans' house when he called there, he did not know where he was or what he was doing.

9.166 The second statement made by Mr Dougal on 21 November 2023 was also adopted by him. He appended a memorial card which he said had been ordered by his family, with around 300 of them made. This noted that John had been shot dead on 9 July 1972, aged 16½ years. It made no mention of any paramilitary involvement. He said his grandfather (his mother's father) also had around twenty different memorial cards made, which he designed and had printed himself. These stated, "Sacred Heart of Jesus, have mercy on the soul of VAL [sic] JOHN DOUGAL, 91 Springfield Avenue, Belfast, 2nd Battalion B. Coy. Shot dead by crown forces on 9th July 1972..." Mr Dougal said he did not know why his grandfather had had these made and never spoke to him about it. He believed that the cards were inaccurate as he did not believe that John was in the IRA; everything he knew about John was not consistent with this. He stated that there were death notices published on 11 July in the local newspapers by the family and there was no mention in these of John being in the IRA.

9.167 There was also a notice from the Brigade Staff Officers and Volunteers of Cumann na mBan, which stated that they regretted to learn of the death of Volunteer John Dougal, killed in action. There were similarly worded notices published on behalf of the Officers and Volunteers of B Company, 2nd Battalion, Belfast Brigade, Oglagh na hEireann; and a notice published by the “Officer Board and Members of an Cumann Liam Parland”, which stated that they deeply regretted to learn of the death of Volunteer John Dougal. Mr Dougal said he did not know why these notices suggested John was a “volunteer” or “killed in action” as everything he knew about the circumstances of his death was contrary to this. He believed John was not in the IRA and that multiple other pieces of evidence from the Republican movement confirmed that John was a member of Na Fianna and not the IRA. He did not believe there was any discussion about these notices at the time. It was only after John’s death that he discovered that John was in Na Fianna.

9.168 Mr Dougal said that he had seen the Springhill Massacre pamphlet and remembered that his mother told him the “story about the brush” (see para 6.65 in Chapter 6) years after John was killed. She told him about Jim Bryson coming to the house and that Bryson had told her that John would only sell newspapers such as *An Phoblacht*. He could not remember when his mother told him this.

9.169 At the end of the conflict there was a dinner for the Republican dead, and each family was presented with a hard-backed book called ‘Tírghrá’ (‘Patriotism’). The book notes that it relates to “Ireland’s Patriot Dead”, to honour the memory of those named on the Roll of Honour and pay tribute to their courage and the dignity of their families. There is a page in the book about John headed “Fian John Dougal”. James Dougal said that some of the information is inaccurate and inaccurately describes the circumstances of John’s death (including those killed with him). The relevant paragraph is as follows:

“It was during one of the many gun battles that marked an end of the truce in 1972 between the IRA and the British Government that John lost his life. On Sunday, 9th July 1972, British soldiers backed by Loyalist gunmen attacked the Ballymurphy Estate. In the ensuing battle, John was killed along with five local civilians. Those killed alongside John were; Patrick Butler, Angelo Fionda, Margaret Gargdin [*sic*], David McCaffetry [*sic*] and the local Priest, Father Fitzpatrick, who was killed outside a house near the Corpus Christi Church”.

9.170 Mr Dougal also explained that John is buried in the Republican plot in Milltown cemetery. The inscription on his headstone reads “John Dougal shot dead 9-7-1972 NAFE”, which he understands stands for Na Fianna Éireann. There is also a marble stone in Milltown cemetery which lists all the Republican dead and John is included on the list which states, “Fiann John Dougal”. Mr Dougal drew a

distinction with others on this memorial who were identified as volunteers and/or killed in action, which his brother was not.

9.171 Returning to his evidence about what he himself saw or heard on 9 July 1972, Mr Dougal said that the reference to heading home about 6.00 pm was a guess. He did not know what time he got back to the Mulligans' but, prior to going to the Mulligans', he had no recollection of any shooting. When he was at the Mulligans' he heard shooting and, from its sound, it appeared to be coming from Corry's Yard. He did not see any bullets or strike marks. They were single shots that were being fired.

9.172 Contrary to what was said in his statement, his evidence was that he had no idea of the location where John had been shot. He also said that the reference in his statement to John having been in town shopping could not be right, as it was a Sunday. He said he had "no idea" where John was that day.

9.173 He was referred to the Springhill Massacre pamphlet and believed that the portion relating to John had come from his mother who had told him that she had done an article. He was asked about the entry which recorded that his mother "burst in and John had half a dozen young lads standing round the bed, holding a tricolour, pledging an oath to the Irish Republic" and he said he took this to be John being sworn in. Asked again about the memorial cards his grandfather had, he said his grandfather died in 1981 and his uncle Patrick discovered an envelope with the memorial cards and newspaper clippings of the time. He would have visited his grandfather most weekends in 1972. He believed John was buried in the Republican plot because he was in the junior wing of the IRA but that he was not a member of the full organisation.

9.174 Mr Dougal was questioned extensively by Mr Aiken about many of the above matters and also asked about a mural of his brother John in the Springhill area. He said that he left the Springhill area in 1976 and did not know there was such a memorial until about half an hour before this was raised with him. He said that he had not mentioned John being in the Fianna, which he had accepted was the junior wing of the IRA, when being interviewed by my investigator because it was "not relevant" as far as he was concerned. This was even though he was aware there was an issue about civilians shooting at soldiers.

9.175 I was troubled by some aspects of Mr Dougal's evidence. For instance, I felt that he was evasive when being asked about rioting in Lenadoon and when and where he went when he returned from Lenadoon. He initially suggested that he went to the Mulligans and, in oral evidence, changed to say that he probably went home to have something to eat first. He also only disclosed the details relating to his brother's involvement in the Fianna and/or the IRA in his second statement very shortly before giving oral evidence, notwithstanding having been in possession of the memorial card made by his grandfather since in or around 1981 and obviously being aware of where his brother was buried.

9.176 I further found it strange that Mr Dougal was not able to offer any other details of being informed that his brother had been shot, as addressed in his first statement. He did not know who had said that or where it had been said, albeit that the speaker said that his brother was “in here”. I was concerned that Mr Dougal was not being frank in relation to this aspect of his evidence and knew more than he was prepared to disclose. I further did not find it credible that Mr Dougal was unaware of the mural depicting his brother as a gunman in the local area. He indicated that he had personally campaigned for an inquest and that family members had lived in the area even after he had left. (His mother lived there until the early 2000s). Nonetheless, he said he was not aware of the mural and no one had ever mentioned it to him. When asked where it was, he initially insisted he did not know and had never seen it, before adding that he thought it was as you turned in towards the chapel. I also did not find it at all credible that James Dougal never spoke to Martin Mulligan about the events of the evening of 9 July 1972, notwithstanding that he knew Martin (and said that that was who he was going to visit at the Mulligans’ that day) and that the Mulligans were family friends.

9.177 Again, I was left with the impression that there were elements of knowledge or information within his possession that Mr Dougal did not wish to discuss; and that his evidence was tailored to present his brother in the most positive, or least negative, light. I accept that he made a number of disclosures against interest in his second witness statement; but consider this is likely to have been because he considered that matters of this nature were going to be put to him in detail in any event and that it was better that he address them to some degree in advance in order to take the sting out of any such questioning. (At the same time, he also disclosed the memorial cards made by his grandfather which were otherwise unlikely to have been the subject of evidence.) His suggestion that he initially did not consider his brother’s potential affiliations to be of any relevance demonstrated either complete naivety or, more likely in my view, a desire to ignore or downplay any information which might give rise to a more suspicious impression of his brother or his actions.

Mary Dougal (now Judge)

9.178 Mary Dougal gave evidence on 24 November 2023 and adopted a witness statement she had previously provided. She was the sister of the witness whose evidence is addressed immediately above and her brother was John Dougal, one of the deceased.

9.179 On 9 July 1972, she remembered it was a Sunday afternoon and she was at home cleaning. Her mother and father had gone to Muckamore Abbey to see her sister Breige. John arrived at the house with his mate Paddy Teer, who is also now deceased. The two of them were mucking about and making fun of her and they had an argument. When her parents returned home, her father went to find John, found him at the shops and brought him home, where he was grounded by his father and sent to his room.

9.180 At about 9.00 pm there was shooting coming from the direction of the timber yard. Their father had to go out to work at the gas department. The witness was sitting in the living room with her mother, who told her to go up and check on John. She went up to the bedroom which was empty, with the window open. (You could climb out the window onto the coalhouse and jump to the ground.) She went down and told her mother who kept saying, "God protect my son". She told her mother to 'put her head down' and she went to the end of the alley by their house to see if she could see John. May Burns came past her and asked if she had heard about their John, who had been shot. She took off running to Mrs Matthews' house, who calmed her down, told her not to listen to May Burns, and sent her home.

9.181 Just after 10.00 pm, the door rapped and it was Hugh McMullan. He had run from Westrock through the Springhill houses to get to them. Hugh asked where her father was and she told him that her father was at work. Mr McMullan came in and knelt down by her mother and told her that John had been shot and was dead. Ms Dougal went on to describe the aftermath over the following days and thereafter. Harriet Kelly and her father went to identify John's body at the morgue the following day. Her mother worked in the RVH where, later, someone had written on her clocking-in card that they were the UDA and had shot her son. Her father received a similar phone call at work, which led to the family being unsure if the army were alone in the yard that night or if loyalists were also present.

9.182 Ms Dougal said she believed that Martin Dudley had been in a car that was stopped and he was shot in the car. She believed her brother and John and Brian Petticrew had gone for cigarettes just before and had then gone to help Martin Dudley when he was shot in the chest. This was obviously simply hearsay and based upon what others had told her, as she had not been a direct witness of any of this. Ms Dougal was questioned by Mr Aiken. She was sure John had come in with his mate Paddy Teer, whom she did not know personally but who would have come into their house sometimes. She was asked if she knew Paddy Teer was in the IRA and said she did not.

Brian Petticrew

9.183 Brian Petticrew gave evidence to the inquest on 23 April 2024. He had provided a detailed written statement dated 3 January 2023 and then a shorter statement dated 26 March 2024, each of which he adopted. He was shot during the incident on 9 July 1972 and was (understandably therefore) emotional throughout various points of his evidence.

9.184 In July 1972, Mr Petticrew was 17 years old and living at 56 Westrock Drive, Belfast. He was the third oldest. His older brother John was 19 years old. He had the nickname Bru. At that time the witness was working as a welder with DC Products on Kennedy Way, Belfast, which made exhaust systems. He gave some

further detail about this work in answer to questions from Mr O'Hare. He was involved in working with exhausts and spray painting.

9.185 Mr Petticrew described the Westrock area as a small community of 60 to 70 houses, where everyone knew each other. He gave evidence about Corry's Timber Yard overlooking the estate. He said it was a massive complex which was at a height and from the timber sheds of which you could see everything happening in the area. From his house there was a clear view of a hoist or crane-like structure which he thought was used to move logs. Where this structure was located there were steel girders placed across, which allowed soldiers to sit and look out on to the estate.

9.186 On 9 July 1972, Mr Petticrew was on holiday as it was the Twelfth fortnight. He was at home with his father and some of his younger brothers and sisters. His mother was at the bingo at the Westrock Community Centre. His brother John had been out earlier, he did not know where. At some stage, John Dougal, who was a good friend of his brother John and his, called and they sat talking. He remembered his brother John had been out. They then all sat talking. Then, about 9.00 pm, his brother John said he was going for cigarettes to Kate Clarke's shop at 38 Westrock Drive. John Dougal said he would go with him, and they both left and went to the shop walking across the Maguires' garden, down the back of Kate Clarke's. He was asked later about the time of 9.00 pm which he mentioned (as he had said in his account in the Springhill Massacre booklet that this was about 9.30 pm). He was not really sure why he thought it was about this time and said that maybe he looked at the clock. He did not remember but thought that this was just a memory which stuck in his head. In answer to later questions he indicated that he was aware at the time of the announcement made at 9.00 pm by the Headquarters of the IRA in Dublin that all units were to resume offensive action.

9.187 Appended to Mr Petticrew's statement, amongst other things, was an excerpt from a book entitled 'Before the Dawn' by Gerry Adams. It provided an account of the events of that evening. In that book, it stated that Brian Petticrew went for cigarettes. Mr Petticrew said this was incorrect and that it was his brother John who did so. He added that he had never given an account of that night to Gerry Adams and had no input into the book.

9.188 In answer to later questions, Mr Petticrew said that John Dougal had called into their house about 8.30 to 8.45 pm that night and then his brother had come in about 15 minutes later, around 9.00 pm. They then chatted for about 15 minutes or so. It was put to Brian Petticrew that the account given by his brother John was inconsistent with his evidence. He accepted this but indicated that the account he had given was his evidence; and that his brother's account was wrong.

9.189 His brother John and John Dougal had only left the house a couple of minutes when he heard three to four loud cracks which he knew were shots. They sounded like single shots. He went outside, against his father's advice, to see what was going

on. When he got past the gable wall at 58 Westrock Drive, he looked up towards the circle on Westrock Drive and Corry's timber sheds and he could see someone kneeling down. He realised that this was Paddy McManus, who lived locally to them and was aged about 16 years old at the time. There was another person lying flat on their back with their feet facing right and their head facing Springhill. Paddy McManus was holding the person's head and shouting that 'Duds' had been shot or "Martin Dudley has been shot".

9.190 Brian Petticrew said that he ran to help. He stopped at the corner of 60 Westrock Drive and looked left and right. He could see a grey Morris Minor car stopped at the side of the road next to Martin Dudley and Paddy McManus. He could not see anyone else on the street. The car was facing Springhill. Martin Dudley was lying next to the car; and it was protecting him and Paddy McManus to a certain extent from further gunfire as they were on his side of the car, on the footpath. Mr Petticrew marked the location of the Morris Minor car on a map with the letter 'C'. He was asked if he heard car horns and did not remember that. He thought the doors of the car were closed and described it as just parked. He did not remember anyone else being on the street other than Martin Dudley and Paddy McManus. Later in his evidence he said there was no one around and he thought that people had heard the shooting and gone indoors. He said he did not know who owned the grey Morris Minor. He did not remember any other cars being on Westrock Drive.

9.191 When he got to No 60 there was no shooting and he leaned forward to look round to the left, with his right arm out, to look up and down the street. He said he was in close to the bungalow before he stepped out. He then heard a loud bang and felt like his right arm had been hit with a sledgehammer. He said his arm flew up in the air and spun him round 180 degrees and he realised that he had been shot. He marked on the map the location where he was when first shot in the arm.

9.192 Mr Petticrew believed that the shots came from the sheds. As he spun around from the force of the bullet hitting his arm, he could see John Dougal and his brother John walking towards his house from the shop, between the two Maguire bungalows (Nos 48 and 50). They both came running towards him to help and his brother John stopped. He was trying to get back to the house and remembered that his vision had "gone black and white". John Dougal got to him and tried to grab hold of him to help him home. They started running back towards his own house. There were more shots and he could see his brother John was frozen still and looking at him in shock. He thought the shots he heard at this point were single shots but they were quick. He then felt like he had been punched in the back and saw tar-like blood flying over his head and said there seemed to be "blood clots or like pieces of liver in it". He said there was no fire being returned.

9.193 When he got back to his house he was laid in the living room and his father stuffed a tea-towel into his back. He had not actually seen what happened to John Dougal and he asked his brother John what had happened. His brother said that

John Dougal had been shot and was lying in the garden of 58 Westrock Drive. (Mr Petticrew marked on the map where he believed John Dougal was shot.) Neither John nor his father could get to John Dougal because of the gunfire.

9.194 He did not know how long it was before this happened but Mr Petticrew remembered Theresa McGuinness coming in to help him; and Bobby McCrudden and Goose Russell were there also. PJ Walls also came in to help, an ex-service medic, and Mr Walls treated him. (Mr Walls had forgotten his first aid kit so Bobby McCrudden went to his house in Whiterock Gardens to get it.) He could hear shooting on and off and believed the house was being fired upon. He then remembered John Dougal being carried into the living room by Bobby McCrudden and Goose Russell, what seemed like a couple of hours later. He was laid next to the fireplace and was dead. He did not remember anyone else injured other than Martin Dudley and John Dougal.

9.195 Mr Petticrew remembered there being a discussion about how they were going to get him out of the house and his dad and some neighbours put a hole through the back bedroom wall into Mrs Campbell's back bedroom. In the meantime he had been lying in the house on the floor. He believed he was taken out to the ambulance 2½ or maybe 3 hours later. He was put onto some type of stretcher and carried through the hole in the wall and then through the side door of Kate Campbell's. He was carried down an entry at Westrock Parade and into Whiterock Gardens. There was an ambulance at this location which took him to the Royal Victoria Hospital. He also described his injuries in his statement: three bullet wounds in his right arm (albeit he only heard one shot) and a 6-inch hole in the right side of his back. He was in hospital for about three weeks. He remembered police coming to the hospital and asking him how he was shot; and soldiers who came and started taking photographs of him. He never made a statement to the police and was not called to the original inquest to give evidence.

9.196 Mr Petticrew said in his statement that he did not see any gunmen in the area. In his second, short statement, however, made shortly before he gave oral evidence, he confirmed that on 9 July 1972 he was a member of Na Fianna, having joined in or about November 1971. He also observed that, at the time of making his earlier statement, he had not had the benefit of legal advice. He was asked some questions arising from this. He indicated that the Fianna was broken down into various sections. Whiterock was F Company and Ballymurphy was B Company. He was in F Company, which covered Whiterock and Springhill. He explained that F Company had just one sluagh, which was the Sean Doyle Sluagh. He indicated that there were about 20 people in the sluagh, who were aged about 14 to 17 years old. These were people from the Springhill, Westrock and Whiterock area. He indicated that Paddy Teer was a good friend of his, who was later interned (and appears on an IRA roll of honour mural which he thought he had seen) but relied on his privilege when asked if Mr Teer was in his sluagh. He said he had not seen Paddy Teer that day.

9.197 Mr Petticrew described the role of the Fianna as being to do guard of honour and to march at funerals, and to distribute booklets about Irish history. He later exercised his privilege and declined to answer when asked how often they would meet and what would happen at the meetings. He said he had never heard of a recruiting officer within the Fianna. He said there would have been an adjutant, who was second-in-command. He, however, was just a volunteer. It was put to Mr Petticrew that there was intelligence information which might suggest that he was the adjutant and he denied this. When asked who was in command of the sluagh he asserted his privilege against self-incrimination and declined to answer in relation to his knowledge of this. He also did so when asked who the adjutant or second-in-command was; and when asked for the names of any other members of the sluagh.

9.198 When asked if his brother John was in the Fianna he answered that his brother was an ex-republican internee. He received a republican funeral and there is a mural of him in Whiterock with other ex-internees, and that that was all he was going to say. (The manner of these answers appeared to me to essentially be an acceptance of involvement with the Fianna or the IRA, at least at some point.) When asked if John Petticrew was a member of the Fianna in July 1972, he asserted his privilege. Later, in answer to questions from Mr Aiken on behalf of the MoD, he indicated that his sister Anne-Marie died "on active service" as a member of the Republican movement (which he confirmed referred to the Provisional IRA) and that this was the same for his brother John and him. This appeared to confirm that each had been a member of the IRA but it was not clarified precisely when this was. Mr Petticrew later relied on his privilege when asked if his older brother, then aged 20, was in the IRA proper. He did observe, however, that you *could* remain in the Fianna if you wanted to.

9.199 Mr Petticrew was asked about whether John Dougal was a member of the Fianna and confirmed that he was and that he was in the same sluagh. In later evidence he said that John Dougal had called that evening as he was a friend of his; and he would have been a regular in their house. John's visit had nothing to do with the breakdown of the ceasefire which he had heard about on the news. Asked if there was anything expected of members of the Fianna given the breakdown in the ceasefire, he denied this. He said he did not know David McCafferty. When asked if the members of the sluagh ever took part in handling or training in the use of weapons he denied this. He said he had never heard of members of the Fianna having been accidentally killed in the course of training with weapons. He had heard of members being shot but said the weapons involved did not belong to the Fianna and that they should not have had access to the weapons. When questioned about this again later by MoD counsel, the witness maintained that the Fianna did not have access to weapons; and he did not know how Michael Sloan got the weapon or came to his death. Asked about the connection between the Fianna and the Provisional IRA, Mr Petticrew said they were separate organisations. He also denied that membership of the Fianna involved associating with members of the Provisional IRA. However, he was aware of some activities of the IRA including carrying out bombing attacks. He said there was a "war" going on. He accepted this

was the organisation he was “graduating into”. He was questioned about a photograph discussed further in Chapter 6.

9.200 Mr Petticrew was asked about who was in the area at the time of the firing on the soldiers but said that he was not aware of this. He said he did not get any information in relation to this even at a later stage, even though he had gone on to join the IRA in the area. He was asked about the associations of others who assisted him and said that Goose Russell was not a member of the Fianna and he only knew Bobby McCrudden to see and could not say anything else about him. He denied that either of them were members of an unlawful association. He indicated that he knew John O’Donoghue but did not think he was a member of anything. He did not know John Fusco. He did not believe Martin Dudley was involved in any organisation, nor Martin Mulligan to his knowledge. He knew Brian O’Kelly well and said that, to his knowledge, he was not involved in anything.

9.201 Mr Petticrew accepted that he had made a statement to Mr McCabe in relation to the Springhill Massacre pamphlet. He was asked about the reference in the account attributed to him to a “gun battle” raging so fiercely that an ambulance could not get into their street. He indicated that there had been shooting afterwards, which he heard. Pressed on this, he said that the Republican movement had come out to defend the area and started firing back at the British Army. He said he knew this from what he had heard. He could hear different sounds of gunfire and sometimes it was sustained fire. He said the shooting had stopped by the time he was taken down to the ambulance. He had heard sustained gunfire when back in the house which he thought, in answer to a question from Mr O’Hare, may have been the reference in the army radio logs to machine gun fire around 10.20 hours. This sounded like heavier gunfire.

9.202 In the course of questioning, Mr Petticrew accepted that John Dougal had been with him at a time when, in death notices a few days later, John Dougal was described as having been “killed in action”. He was asked if he had any idea why anyone would say that if it was not true and said he did not. He was asked about the large painted mural in Springhill showing John Dougal as being armed (see para 6.62) and said he had never seen this and did not know why John Dougal was depicted as a gunman.

9.203 The witness was later asked about Mr De Baróid’s book, in which he interviewed an IRA member who claimed that he had been with Jim Logue at a riverbed and fired flares up at Corry’s Yard, and then Jim jumped up with a carbine but it had dud rounds. Mr Petticrew indicated that he had never read this book and had never heard of a riverbed in Springhill.

9.204 In answer to questions from Ms Doherty, Mr Petticrew said he only saw those named in his earlier evidence (Martin Dudley, Paddy McManus, John Dougal, his brother John, and his father) and no one else when outside in the cul-de-sac. He said none of them had a weapon. In answer to questions from Mr O’Hare, amongst other

things, Mr Petticrew described his injuries and referred to photographs of his scarring, with no scarring on his front. He made the point that he was shot in the back, with no scarring on his torso, chest or abdomen at the front.

Robert Russell

9.205 Robert Russell gave evidence covering a wide range of matters which was relevant to both incidents 1 and 2. His evidence is discussed chiefly in Chapter 10 since he gave direct eyewitness evidence of the shooting of Fr Fitzpatrick and Patrick Butler. However, I have also taken his evidence into account in relation to incident 1 and, in particular, his evidence as to the initial shooting he perceived; his seeing Brian Petticrew injured in the Petticrews' bungalow; and, most importantly in the present context, his retrieval of John Dougal's body along with Bobby McCrudden. On his evidence, Mr Dougal's body was retrieved from just outside the front door of 58 Westrock Drive. I have also detailed the evidence given by Mr Russell of his wearing gloves at the time when he went to retrieve John Dougal's body (see paras 10.165 and 10.178 within Chapter 10). His evidence was that he had not seen Martin Dudley or anyone else who was killed or injured (other than Brian Petticrew and John Dougal); and had not seen any cars.

Thomas Ramsey

9.206 Thomas Ramsey (previously referred to as 'SC5') gave evidence on 23 April 2024. He had provided a statement to the inquest shortly before this. He had previously provided an account at the St Aidan's Inquiry and had been interviewed by the HET.

9.207 On 9 July 1972 Mr Ramsey was married with children, aged 30, worked as a refractory engineer, and lived at 10 Springhill Crescent. He was at home that evening, which he described as a bright summer's night. In his statement he said he remembered hearing shooting coming from Corry's Yard, not towards the Springhill Avenue side of the yard but down towards Westrock area. In oral evidence he said that he did not think he had said that; but that he had heard shooting from the bottom of the street. Later, he said that he did not hear the shots at all but just the commotion outside and only heard shots when he left his house. (I found Mr Ramsey's evidence confusing and inconsistent about whether or not he actually heard shooting before, or at the time of, leaving his house.)

9.208 After the shooting started (about 20 minutes according to his statement and the HET notes), he heard there were people injured and he went down towards the Westrock area to see if he could help anyone. When he left the house and was making his way down the avenue he heard the odd shot. He guessed this would have been between 9.00 and 10.00 pm; but it was still bright and not dark. When he got to the houses at the bottom of Springhill Avenue at the junction of Westrock Drive there were many people in the area sheltering against the gable wall of the houses. He mentioned 40-100 people in the area of the chapel. At that point, there

was no shooting, just the odd sporadic shot. People were saying that there were loyalists in Corry's Yard carrying out the shooting. The bottom of Springhill Avenue was the furthest point he got to that night.

9.209 Mr Ramsey said that he did not see the bodies of any persons who were shot but there were people lying on the ground all around trying to take cover. He could not remember how long he had stayed there, perhaps half to three-quarters of an hour. He just went when the crowd went away. He said it was too dangerous.

9.210 In his written statement, Mr Ramsey had also mentioned something about a car which was in the area. This appears to have arisen from him being asked by my investigator about a comment noted in his HET interview in relation to the IRA going to Lenadoon to engage with the army. His written statement said:

"I have been asked about the comment relating to the IRA going to Lenadoon to engage with the Army. I know that the British Army and RUC were saying that the guys in the car were left behind to look after Springhill. I do not believe that the boys in the car fired any shots at Corry's yard and no weapons or anything were found in the car. It would not make sense from the location of the car to fire shots at the yard, because they would be firing into the air as the wall was 12 foot high with corrugated iron on the top of that."

9.211 When asked if he saw a car in the area, Mr Ramsey said that there was a car at the bottom of Westrock Drive. He thought it must have been the car that was shot at. It was between the last bungalow and the first Springhill house. He could not remember the make or colour. However, he said it was on the right-hand side for driving and the left-hand side coming up (i.e. on the wrong side of the road for driving). He said that there were people lying outside it; he did not know how many, at least two or three anyway. He thought some of the doors were open and some were closed, before adding that if people were lying outside the cars obviously doors were open. He said he was making his way down Springhill Avenue when that was happening. He saw the car at the bottom of Springhill Avenue. Mr Ramsey said he had heard shooting at the top of Springhill Avenue and saw the car at the bottom. When asked if there was anyone else in the vicinity of the cars, the witness indicated that there were people hiding in the three alleyways at the bottom taking cover.

9.212 Mr Ramsey remembered that a hole had been knocked in the wall of Corrigan Park on the Corpus Christi side to get people to safety and to ambulances in the Whiterock area. He did not assist with this but knew that Brian Muckian, Victor Connolly and Billy Mills did, each of whom is now deceased. Mr Ramsey said that he went to the first aid house at Fr Des Wilson's on Springhill Avenue to try to get assistance for people. He knew the Order of Malta ambulance was working but he

did not see anyone carrying bodies or injured persons, nor the ambulance taking anyone away.

9.213 Mr Ramsey was asked if he was aware of the IRA or anyone else shooting in the area that night. He did not believe the IRA arrived into the area until the following day. He said the OIRA may have been firing shots at the yard from the bungalows at the top end of Beechmount, as he heard that one of them had lost the tops of his fingers. He did not see this but picked it up from talk. (There was a note in the notes of his HET interview saying, "Official IRA started to engage".)

9.214 Most of Mr Ramsey's evidence appeared to relate to the following day. He indicated that his involvement on 9 July was very limited, namely that described above. In his evidence he mentioned that, the following day, a lot of people went down to "pick up bits and pieces", see what they could do and get the gossip, around 9.30 to 10.00 am the next morning. He described using his car to take an injured person to receive help, which is discussed further below.

9.215 Mr Ramsey was questioned about the account he had given at the St Aidan's Inquiry. He agreed that it was the account he gave but said he could barely recall much about it. This earlier account suggested that the witness did not hear the shots. When asked about the discrepancy between that account and the statement made to my investigator Mr Ramsey indicated that he did not hear the shots but heard a commotion outside. He was asked about the reference in the St Aidan's account to there being a summer scheme in St Peter's School which finished about 9.30 pm but which may have finished a little bit earlier because of the shooting. Mr Ramsey indicated he could not remember this now and thought this account came from someone else in the audience at St Aidan's.

9.216 When questioned further about his statement that the IRA arrived the following day, the witness indicated that he just heard this and never saw it. He also said he did not see anything in relation to IRA members arriving - they were all coming up from the Whiterock and he was up near the chapel - but what he had said was based upon his belief.

9.217 Mr Ramsey was also questioned about the note of his HET interview. He said he had no recollection of the interview and said that he "wouldn't have said anything". When asked about the note stating "IRA firing from Corrigan Park towards JP Corry's couldn't have hit the casualty", he initially said this could have been shooting coming out of the park at the bottom of the Whiterock which was returning fire on the Brits; or it could have been coming from the other army barracks at the corner of Brittons Parade. When asked again if he knew anything about whether the IRA was firing from Corrigan Park, he exercised his privilege in relation to this question. In his evidence Mr Ramsey said he did not see any armed civilians that evening.

9.218 Mr Ramsey was asked about his associations. At the time he lived at 10 Springhill Crescent which was next door to No 12 where Brian O’Kelly lived. He knew the Russell family, including Robert Russell.

9.219 In questioning from MoD counsel, Mr Ramsey was asked if he remembered speaking to Ciarán De Baróid, which he did. He was taken to the reference in Mr de Baróid’s book which said, “In Westrock it had taken the IRA some 15 minutes to get into defensive positions” but gave no further information about this. He was also asked about the reference in this book referring to him jumping in a car and setting off under fire for St Peter’s School where an impromptu field hospital had been set up and returning to Westrock with a passenger but indicating that he was not going to slow down (because of the shooting). There was a discussion with the witness about whether this was a reference to the night of the incident I am investigating or the following day. The witness indicated that he did not have a car with him that night. He thought the reference in the book must have been to 10 July 1972. The previous night he was not driving and did not get any further than the bottom of Springhill Avenue.

9.220 Explaining that further, Mr Ramsey indicated that, on 10 July, in the late morning or early afternoon he got Anthony Curran to help him get an injured person who had been shot in the back into the car. They drove him to St Peter’s School, where the Knights of Malta Ambulance Service was based. He said he did not know who the injured person was. (However, in his St Aidan’s account there is reference to Anthony Curran lifting someone called ‘Gray’. The Battalion Log records an admission to the RVH the next day of an Andrew Gray at 15.35, having been shot in Westrock Drive at approximately 15.25 hours. Similar information is provided in the relevant RUC Duty Officers’ Report. I believed Mr Ramsey when he indicated that *this* episode occurred on 10 July.)

9.221 Mr Ramsey was asked about information provided to the police to the effect that, in December 1971, his house was being used for arms lectures. After receiving a rule 9 warning, he initially declined to answer that question. However, he went on to state that the information was totally wrong. He appeared bemused at the suggestion (within the intelligence report) that he was in the OIRA but his house was used for arms lectures by the PIRA. (However, the relevant intelligence suggested both that Mr Ramsey had moved from one organisation to the other at a point and also that, albeit at a later point, there was a degree of cooperation between the two organisations in the area.) When asked if he knew any of the persons firing shots at Corry’s Yard, he said he did not and added that he did not even think there were shots being fired that night.

9.222 I was troubled by a number of aspects of Mr Ramsey’s evidence. He accepted that he was one of the few people in the area with a car; yet on the night in question, his account was that he simply went on foot to see what was happening and returned on foot. Although he went to the first aid house at Fr Des Wilson’s on Springhill Avenue to try to get assistance, he did not use his car (which he accepts he

did on the following day). At the very least, that seemed unusual to me given (i) that he had gone down to see if he could help and (ii) that, as I know from other evidence, there was a concerted concern on the part of the community to secure transport for the dead, dying and injured. Whether or not Mr Ramsey had performed a similar task on Monday 10 July, the incident recounted in Mr de Baroid's book appears to me clearly to relate to the preceding evening, Sunday 9 July. It begins, "At this point...", describing a time on 9 July when the wounded were being tended.

9.223 I was also concerned at what appeared to be some discrepancies between Mr Ramsey's account in the inquest and the information recorded in his St Aidan's account and/or noted as having been provided by him in his HET interview. In his account at St Aidan's he described himself - as well as Brian Muckian, Billy Macklin and Victor Connolly - all 'having goes' at the hole in the wall. In evidence, he denied any involvement in creating the hole in Corrigan Park wall; and, indeed, denied being near that vicinity, having only gotten as far as the bottom of Springhill Avenue. His evidence about the night in question was very limited. In contrast, in correspondence with the HET of 5 October 2011, Fr Des Wilson had recommended Mr Ramsey (along with Tony McCabe) as being the best people to contact for information. This was largely in terms of being signposted to *others* who would know what had happened. However, Fr Wilson's recommendation that "we could not wish for better than" Tony McCabe and Thomas Ramsey "and the leads they can give" for me stood in stark contrast to the limited information and assistance Mr Ramsey provided as to the substance of what had occurred.

9.224 My reading of the HET notes is that Mr Ramsey was someone who had taken a significant interest in the events of 9 July 1972, including having read around it in a number of books, and was, at that stage, significantly more open about a number of matters. I have significant doubts about whether he was telling me all that he knew about the events and all of his movements or actions on the evening. I also note that, as mentioned in Chapter 6, when giving evidence in 1974 before a Commissioner in relation to his detention, his evidence as found to be "quite unacceptable".

Felix Cush

9.225 Felix Cush gave evidence on 24 April 2024. He had provided a statement dated 22 April 2024, which was adopted as his evidence. On 9 July 1972 Mr Cush was aged 26 and lived at 10 Westrock Parade. He helped out at the Springhill Community Centre. That day, he opened the community centre as usual. It was used as a social club and would have had bands and music. The normal time to open the community centre was about 9.00 pm. About 10 minutes after opening, someone came into the centre and said there had been shooting and persons injured. There were only staff there at the time. The club would usually start filling with patrons around 9.30 but, as it was summer, people came a bit later. He could not understand the news as there was a ceasefire in place. He had also not heard any shooting.

9.226 He went to see what had happened and at that stage there was no further shooting. Mr Cush said he went to Westrock Drive from the junction of Springhill Avenue and saw people lying on the ground all over the place to prevent themselves being shot. There were people lying around the Tutons' house, No 60. People appeared to be sheltering by the kerbstones of this house. He remembered seeing Paddy McManus there. He thought he was in the Tutons' garden which was lower than the road and had a big kerbstone. There were at least two others and possibly more lying beside him. There were a lot of people. He also remembered Mr McManus making a run for it to get into Springhill. He did not see Martin Dudley and only heard about him later. He did not remember seeing any cars.

9.227 Mr Cush's uncle, Frank McCourt, lived in the first house in Springhill behind the Tutons' bungalow, which he thought was No 62 Westrock Drive. He made his way round to the back of this house as he said there was shooting which started at the front of the house. The shooting was coming from the direction of Corry's Yard. There was a lot of shooting. It seemed to him to be coming from Corry's because of where people were lying for cover and because he could not see anyone firing in the open. From the back of his uncle's house (or just further down) he remembered seeing Paddy Butler's body, although (in answer to questions from Mr McIlroy) he said he did not remember this clearly. He knew Mr Butler well and saw that he had been shot through the eye. He thought Mr Butler's body was lying in a garden of Westrock bungalow which, he explained, all backed right up to the Springhill flats. Mr Cush did not remember seeing Fr Fitzpatrick's or David McCafferty's body; and he only saw Mr Butler's from a distance.

9.228 Many people were running about trying to help. Mr Cush ended up standing at the corner of the McGuinnesses' bungalow with Danny McGuinness Snr, who was trying to see what was happening in Corry's Yard with the use of binoculars. Every time he ducked around the corner there were bullets coming down the front of his house from the direction of Corry's Yard. They were hitting the privet hedge which was being cut by the bullets.

9.229 Someone shouted over to them that Brian Petticrew had been shot and Mr Cush went across to the Campbells' bungalow which joined on to the Petticrews'. Johnny Doherty, who was married to one of the Campbells, had cut a hole in the adjoining wall to Petticrews' bungalow with a hatchet so that he could get Brian out of the house and into an ambulance. Mr Cush did not go into the Petticrews' house as he said you could not get into it because you would have left yourself open at the front or back of the house. He remembered carrying Brian through the hole in the wall and across to the McGuinnesses' garden, then Clarkes' garden, and then into the back garden of a house in Whiterock. The ambulances could not get any closer than that because of the shooting. He could not remember who helped him carry Brian Petticrew. He could also not remember seeing any ambulances in the Westrock area; but Paddy McManus told him later that he escaped the area in an ambulance.

9.230 Mr Cush said that he did not see any gunmen in the Westrock area on 9 July 1972. He did not believe it would be a good location for gunmen as it is so open. When asked if there were different types of firing, he said he would not be able to distinguish between them. He did not recall attending the St Aidan's Inquiry or anything like that; and had not seen the Springhill Massacre booklet, of which he was unaware.

9.231 Mr Cush said that he had tried to remember everything to the best of his ability but acknowledged that, with the passage of time, he was concerned that he may have created false memories from conversations he had had with others over the years.

Anne Maguire (now Vallely)

9.232 Anne Vallely gave evidence on 25 April 2024. She had previously been known as Anne Maguire. She had provided a written statement which she adopted with one modest adaptation.

9.233 On 9 July 1972 Ms Maguire was aged 26, married, had three children and lived at 48 Westrock Drive. She had been with her sister Marie visiting their parents at 187 Whiterock Road, Belfast. In the early evening they left to go home to Westrock. They walked along the Ballymurphy Road and turned into Westrock Drive past Corpus Christi Church. As they were walking, they could hear shooting and people saying that there was shooting in Springhill. She remembered looking towards the bungalows and saw a car stopped outside Tutons' bungalow on Westrock Drive. There were also people standing tight against the walls of the houses. When they got to the second block of houses on Westrock Drive they could see the car. Ms Maguire was able to get to the end house before the bungalows (49 Westrock Drive). The car was outside Tutons', on the road itself, and was facing away from them as far as she could remember. This was just before the turning circle. The car was on the opposite side to where Tutons' bungalow was. Ms Maguire thought the car was black but did not know what type or model it was. She did not see any other car.

9.234 There was shooting coming from Corry's Yard down towards Westrock. Ms Maguire heard from others in the street that a priest, Paddy Butler and a young lad had been killed. Gerard McMenemy was with someone who was lying between the car and the kerb by Tutons' bungalow. Gerard McMenemy was crouched over, at the side of the car towards the back, on the side nearest to Tutons' bungalow. Ms Maguire said she knew Gerard McMenemy; he was not a friend but she was familiar with him as he was from the area. (She did not recall knowing Paddy McManus.) Gerard shouted over that Duds had been shot. Ms Maguire told him to put pressure on the wound and Gerard said he (Duds) had been shot in the head. Gerard took his t-shirt off and wrapped it around Martin Dudley's head. In later questioning, Ms Maguire indicated that she only saw Messrs Dudley and

McMenemy beside the car or at the circle. She did not see anyone at the nearby electricity box.

9.235 Ms Maguire then went to May Donnelly's house. She did not know the time and said there was so much happening she never thought about time. In the house there was some of the Donnelly family and Fr Fitzpatrick was lying on the living room floor. Ms Maguire recalled that two Mother Teresa nuns arrived and said prayers. She recounted putting pennies on Fr Fitzpatrick's eyelids to try to keep them closed. She kept looking out towards the Petticrews' bungalow to see if it was safe for her to get home to her bungalow at No 48. She was eventually able to make her way down to the back garden of the Campbells' house and over to her row and into her home.

9.236 No one else was in her house at the time. When it was safe to leave, she made her way back towards May Herald's house (at No 47) and met an ambulance near No 49. She remembered helping an ambulanceman put the body of a young man into the ambulance. Whilst she was lifting the young lad her hand went into a wound in his back. She did not know him. She went again to the Donnellys' where a priest arrived and was hearing confessions in the kitchen. A lot of people were coming and going. Ms Maguire could not specifically remember who they were. She could also not remember if Fr Fitzpatrick's body was still at the house at this stage; and she did not recall seeing Paddy Butler's body at all.

9.237 Later that evening she made her way to St Peter's School, to where she heard that Marie and her children had gone. She could not time this but thought it was early evening as it had not yet become dark; it was still daylight. She could hear shooting continuing. She heard at the school that the IRA was shooting back at the army from Corrigan Park and from the shops at Springhill. People there were speaking about what they had seen or heard. When asked who said this, Ms Maguire said it was just rumour. She thought the shooting went on for about two days. She recounted that, the following day, Mrs McGuinness from the end bungalow went out to hang out her washing and the army started to shoot at her.

9.238 Ms Maguire said she did not have any involvement in the Springhill Massacre pamphlet. She also did not recall being involved in the St Aidan's Inquiry. She did, however, assist Ciaran De Baróid to research his book, along with Maureen McGuinness and Eugene Trainor. Despite this, she said that she did not know the identities of the IRA volunteers who contributed to the book. She explained that she did not collect any physical accounts to put into Mr De Baróid's book. They would simply ask if the relevant individual wanted to speak to Ciaran and tell him the story; those assisting did not get all the details of it.

9.239 Ms Maguire did not know what time these events occurred. When asked how she knew the shooting was coming from Corry's Yard she indicated that that was from where they were taking cover. The shooting was coming from behind them and towards the bungalows; it was not coming from any other direction. She did

not see any civilians with guns that evening. However, someone said the IRA was shooting back out of Corrigan's.

9.240 Ms Maguire was questioned by MoD counsel in relation to the extracts from Mr De Baróid's book which referred to Martin Maguire (the witness's brother-in-law) on Monday 10 July 1972 "engaging the snipers in Corry's", hearing his name being called and then looking round to see his sister-in-law Anne. The witness confirmed that Martin was firing his weapon at Corry's on that date. When asked what type of gun Martin was using, Ms Maguire said it was a long one which she supposed was a rifle. He was firing from the side of the McGuinnesses' house and would have had his back towards Corrigan Park. Asked if Martin was in the IRA, the witness indicated that she assumed he must have been or else he would not have had a gun. She said this was the first and last time she had seen him firing a weapon. Asked if any other members of the Maguire family were in the IRA, Ms Maguire asserted her privilege, as she did when asked about her neighbours John and Brian Petticrew. She accepted another brother-in-law had later been convicted of murder (of a resident magistrate). She was shown a photograph of a mural with her father-in-law and brother-in-law, each called Ned Maguire, pictured with IRA members. She believed Ned was in jail at this particular time. Two of her sisters-in-law lost their lives in 1971 and were in the female wing of the IRA. When asked what Martin Maguire had been doing on the evening of 9 July, the witness indicated that he was down at the school. She saw Martin at the school with Marie his wife and their child. She was asked extensively about associations and acquaintances.

Marie Gavaghan (formerly Vallely)

9.241 Marie Gavaghan gave oral evidence on 27 April 2024. She did so remotely (with a portrait of Bobby Sands prominently displayed behind her). She was another late witness to give evidence and had given a written statement to the inquest, which is summarised below, only shortly before on 25 April 2024. On 9 July 1972 she was 18 years old and lived at 187 Whiterock Road with her parents. On that day she was with her sister Anne – the witness whose evidence is summarised immediately above – who was visiting their parents. Later in the afternoon, Ms Gavaghan left with Anne to go back to her house at 48 Westrock Drive, Belfast to check on the children, as she had heard that there was trouble in Lenadoon. They walked through Ballymurphy into Springhill, entering Springhill by Corpus Christi. On the way through Ballymurphy she could hear the odd shot. When they got to Springhill there was a lot of shooting and it was mayhem. Ms Gavaghan said they could see people putting mattresses against the windows. A man who lived locally called Mills said the Brits were shooting from Corry's Yard.

9.242 She then saw a car outside the grey block houses at the start of Westrock Drive. The car was probably two or three houses in from the end house. Someone shouted that Dud had been shot. She saw one of the McMenemy brothers dragging Duds into cover, as there were bullets hitting off the tarmac where he was lying. From the angle of the bullets that were being fired, it looked like he was going to be

hit again. She was going to help but Billy Mills pulled her back by her ankles and told her not to move or she would be shot. She then saw McMenemy take off his white shirt and put it on Duds' injuries. It quickly became soaked with blood. The fellow cradled Duds' head in his lap and the bullets were still hitting off the tarmac.

9.243 Anne and she had to stay there for two or three hours until the light faded as it was not safe to move. They were then told they could move further up the street. They thought Martin Dudley was dying as he was no longer responding. They made their way through the alleys to the Donnellys' house. There, three to four nuns were crying and praying for Fr Fitzpatrick who was lying on the floor. About 30 minutes to one hour later, they were asked to help put Fr Fitzpatrick's body into an ambulance. She remembered lifting him and her hand went into a wound in his back and parts of his internal organs came out. She had to push them back in and this was traumatic. She did not remember anyone else in the Donnellys' other than Mrs Donnelly and the nuns. They heard a short while later that Anne's children were safe. She could not remember where else she went that night or where she slept; but did remember going to the Petticrews' the next day. She did not see any other bodies near Mrs Donnelly's house.

9.244 As to the shooting, Ms Gavaghan described that there would be a lull and then 2-3 shots; and then another lull and 2-3 shots; and that this went on for a long time. She did not see any gunmen shooting into Corry's Yard. She said the shooting was all coming from one direction, which was Corry's Yard. Her statement concluded by noting that she had tried to remember things to the best of her ability but that some things may have gotten "slightly mixed up" given the passage of time of nearly 52 years. She did want to "assist the families" with the information that she had.

9.245 A good deal of the summary set out above came from Ms Gavaghan's written statement to the inquest. When asked if she was content with the written statement which had been prepared, Ms Gavaghan indicated that she had got new dentures and that it was not in fact Mr *McMenemy* but Mr *McManus* who was cradling Martin Dudley at the car. I return to this below.

9.246 Ms Gavaghan was asked if she could give a better indication of the time in the early evening when she was returning back into the Springhill area. She indicated that she would say it was somewhere in the region of 5.00, 6.00 or 7.00 pm. She was also asked about seeing the car which was described in her statement as outside the grey block of houses. She indicated that this was a reddy, grey dirty-coloured car. Asked where on Westrock Drive the car was located, she indicated somewhere between the Donnellys' and McKennas'. It was on the Corpus Christi side of Westrock Drive, a couple of feet up from Corpus Christi where the houses started, one or two houses in. She described the car being directly across the road from her and her location being 6 feet away from the car and where Martin Dudley was. She referred to this on the map (at an area around where No 73 Westrock Drive is).

There was nobody in the car. She could just see the fellow McManus, who was shouting that Duds had been shot.

9.247 When asked about the indication in her written statement that it was one of the McMenemy brothers whom she saw with Martin Dudley, Ms Gavaghan said she had mispronounced that and that his name was Paddy McManus. She said she realised that she had made a mistake when she re-read her statement and felt that she had pronounced the name wrongly. She knew both Paddy McManus and the McMenemys but both vaguely, to say 'hello' to but not very well. Her evidence was that Martin Dudley was on the road and Paddy McManus was pulling him towards the car. The car was facing towards the Ballymurphy Road. When pressed on whether she remembered anything else about the car, the witness indicated that it was a fairly bright colour, not black.

9.248 When questioned by MoD counsel, Ms Gavaghan was asked again about the change between her statement (that it was one of the McMenemy brothers who was involved in assisting Martin Dudley) and her oral evidence (that this was, in fact, Paddy McManus). She was asked whether she knew that Paddy McManus had or did not have a brother and she did not know.

9.249 Ms Gavaghan was asked whether she was a member of the female side of the IRA on 9 July 1972 and, after a rule 9 warning in respect of this question, relied upon her privilege and declined to answer. A newspaper article from December 1971 was put to her, referring to her and her sister (the previous witness) being released on bail on charges of possessing an explosive substance at Westrock Drive. She denied involvement in this and said she was cleared of those charges; but accepted that she had failed to answer to her bail in January 1972. She had refused to recognise the jurisdiction of the court. She also accepted that it was a matter of public record that she was later convicted as an IRA bomber. (She was taken to a newspaper article from March 1974 reporting her being jailed for 12 years for causing a bomb blast and being described by the sentencing judge as a "dangerous and dedicated terrorist".) As to that, Ms Gavaghan said she did not accept the facts of that conviction at the time, but did not deny it, and that her position remained the same now.

9.250 She said she did not know if Martin Dudley was connected to a paramilitary organisation. She also said she did not see Martin Mulligan at the car and only saw two people there. She gave further details about Martin Dudley's location describing him as being at the side of the car facing her, between her and the car (which would have meant he was not being provided with cover by the car) at the front wheel of the driver's side. She did not see Martin Dudley getting to an ambulance.

9.251 When asked further about putting Fr Fitzpatrick's body into an ambulance, she said she did not recall this, as she did not remember an ambulance. (This contradicted the statement she had made indicating that she had assisted with putting Fr Fitzpatrick's body into an ambulance.) Ms Gavaghan indicated that she

took the body of Fr Fitzpatrick up the alleyway towards Westrock Drive and then a man took over from her. She did not see what happened after that. She conceded she could have handed it over to an ambulanceman.

9.252 In the course of later questioning, Ms Gavaghan said that she did not hear any shooting from the civilian side towards the army. She also said her sister Anne had never told her about her husband Martin firing his rifle at Corry's.

9.253 There were a number of aspects of this witness's evidence which caused me grave concern as to its reliability. In particular, the correction from McMenemy to McManus, and the explanation for the apparent mistake, was very difficult to believe. It appeared to me to have been effected so that this witness's testimony accorded with that of someone else, whose evidence had been that Paddy McManus was the person assisting Martin Dudley. (I note that this is not what the witness's own sister had said. Her evidence was that it was in fact Gerard McMenemy whom she had seen at the car with Mr Dudley after he had been shot: see para 9.234 above.) Ms Gavaghan's earlier version had been given very shortly before her oral evidence and in terms (including the reference to the McMenemy *brothers*) which made the simple mistake in pronunciation she described very unlikely (leaving aside the inherent implausibility of McManus being mistaken for McMenemy by reason only of new dentures). The purported correction raised serious questions about this witness's honesty and reliability. I was also concerned that the correction may not have been a personal decision of the witness but might well have been suggested or encouraged by someone else (although Ms Gavaghan denied speaking to anyone about this, saying that she did not think that she was allowed to). If that were so, it could raise more general concerns about the integrity of the civilian evidence, or at least some of it.

9.254 The position of the car which the witness described as being where she had seen Martin Dudley (and the man assisting him) also sat uneasily with the majority of other evidence about the location of this vehicle, which was closer to the turning circle. As discussed further below, it may be that Ms Gavaghan was remembering the location of a *different* car which was also present at or about the scene. However, I also considered that the witness had difficulty orientating the map and being precise about her location, which could have affected the accuracy of her evidence in this regard. She was also unclear about putting Fr Fitzpatrick's body into an ambulance. It seems to me highly unlikely that this was, in fact, Fr Fitzpatrick's body since Ms Gavaghan's statement described her hand going into a significant wound in his back (whereas Fr Fitzpatrick was not shot in the back but in the face and neck). If indeed she was involved in assisting with the removal of any body, it seems more likely that this may have been the body of David McCafferty.

9.255 In light of this witness's later criminal conviction and answers when being questioned around that topic, I consider it highly likely that she had and retains strong political views, including extreme views as to the acceptability of the use of

violence, and a deep antipathy to the British army. I consider it would be unwise to place any significant reliance on her evidence as an objective account.

9.256 In all, I had significant concerns about how convincing this witness's evidence was. At best, aspects of her evidence appeared to me to be unreliable; but, at worst, I had concerns that (particularly in respect of her change in evidence discussed above) she was being deliberately untruthful.

Mary Doyle

9.257 Mary Doyle gave evidence which was relevant to incident 2, since she lived at No 82 Westrock Drive, close to where Fr Fitzpatrick and Patrick Butler were shot. However, she describes trying to make her way home from Ballymurphy Road and encountering shooting which, on her timings, was probably between 8.35 pm and 9.10 pm or so. She was adamant that this involved automatic gunfire, as well as single shots. She believed this was coming from Corry's Yard towards the front of Corpus Christi Church and the Springhill flats. Her evidence is discussed in Chapter 10 and has also been taken into account in relation to this incident.

Brian O'Kelly

9.258 Brian O'Kelly's evidence is likewise dealt with chiefly in Chapter 10, as it relates to his account of witnessing the shooting of Fr Fitzpatrick and Patrick Butler. However, he was also asked about a previous account he had given to the St Aidan's process in which he indicated that, from the McGuinnesses' bungalow, he could see Brian Petticrew and Martin Dudley injured. In that account, he placed both of them in the circle area, with Brian Petticrew lying in the middle of it.

Martin McShane

9.259 Martin McShane (whose nickname was Gil) was 21 years old in July 1972. At this time, he lived at 37 Westrock Gardens, one of the aluminum bungalows, with his family, including his sister Theresa. Mr McShane provided a statement to the inquest and oral evidence on 10 November 2023.

9.260 Mr McShane described the family home as backing onto Corry's Yard, which overlooked the bungalow. He described Corry's wall as about 10 feet high with corrugated iron on top of this, above which could be seen the tops of sheds. He said that there were no sheds immediately behind his home; but there were stacks of wood such as telegraph poles. Mr McShane provided some helpful evidence regarding a small wall referenced in other witness evidence. He described a wall, approximately four feet high, separating the Springhill houses from the Westrock bungalows. Using a plan prepared by Mr Vannan for the inquest, he said this wall ran from the area between Nos 59 and 41 Westrock Drive down to around 3-4 feet before the electricity box. There was then a small palisade fence around the electricity box.

9.261 Mr McShane described 9 July 1972 as a normal Sunday. He said there was some talk of trouble in Lenadoon and that the ceasefire had broken down. He gave evidence that he was on the Committee of the Springhill Community Centre, where there would usually be a function on a Sunday night. He usually went to the centre around 7.30 pm to help or do the door. In a map appended to his statement, he marked the location of the Springhill Community Centre on Springhill Avenue at the southwest corner of Corry's Yard, almost running alongside the wall, and to the north of where other witnesses described the Springhill shops.

9.262 On the evening of 9 July 1972, he was at the community centre. Mr McShane said that he was at the door in the centre when, at around 8.30 pm, shooting started. He described the noise as "terrific", sounding "like it was on top of us". He did not know where it was coming from but said it felt like it was practically beside him and he thought it was very, very close. He said Corry's Yard was 20-30 feet or less from him. He continued that there was not a lot of people in the club. Those who were there wanted to know what was going on as they were concerned for their children and wished to make sure they were at home. However, he said they would not let anyone leave as it was not safe. He recalled being told, he did not know by whom, that Martin Dudley had been shot in Westrock and people were trying to get to him to help him but they could not get to him because of the shooting. Mr McShane said he stayed put at the club for about 30 minutes or maybe more. The shooting seemed to ease slightly and he decided to try to go home as and he was worried about his parents.

9.263 He described leaving the club, walking tight by the Springhill houses and onto Westrock Drive briefly, before turning into the bungalows to the east of Corpus Christi Church. (He also plotted his route on a map appended to his statement.) He confirmed his usual route home would have been to travel further along Westrock Drive into Westrock Parade and then Westrock Gardens; but on this occasion he was unable to do so because of the shooting.

9.264 He said that when he got to Westrock Drive, he saw a person lying on the road by a car. He was later told that this was Martin Dudley. He could not remember the type or colour of the car. On the map appended to his statement, Mr McShane placed Mr Dudley just to the west of the turning circle. (In his oral evidence he described him as lying somewhere around the Heralds' house at No 47, which is to the west of the turning circle, on the northern side of the road). He stated that there was still shooting coming from Corry's Yard and people who were in the area around the electricity box could not get near Mr Dudley.

9.265 Mr McShane said that the persons in the yard appeared to be shooting down the alleys between the houses. When questioned as to why he thought this, he confirmed that he did not see any persons in Corry's Yard, nor anyone looking up towards the yard who may have been shooting; but, when he was looking down at Martin Dudley, there seemed to be strike marks of gunfire coming from that

direction between the alleyways. He further said that there were a few strike marks from gunfire which hit the houses facing Corry's Yard, describing chips and bits of brick flying out of the wall which led him to believe someone was firing and hitting the wall. Mr McShane said it was seeing this and the very loud and close noise which made him think the shooting was coming from Corry's Yard. On a map appended to his statement, he marked what he believed to be the direction of fire from within Corry's Yard.

9.266 Mr McShane recalled that an ambulance arrived to get Martin Dudley, parking around Paddy Butler's house at 71 Westrock Drive or just before it (to the east). He recalled the ambulancemen discussing how to get to Mr Dudley and possibly using the ambulance as a shield against the gunfire from the yard.

9.267 Returning to his journey, he said he took his chance and ran across Westrock Road and into the alley between the houses in Springhill, directly to the east of Corpus Christi Church. When in the area between the two sets of houses (the specific area marked on his map being the passageway between Nos 76 and 78 to the north and Nos 94 and 92 to the south), he said he met others, whose identities he cannot now recall. He said he was told by someone that a priest and Paddy Butler had been shot and taken into a house and covered up as they were dead. The person asked if he wanted to go and see them, saying that people were praying over the bodies. Mr McShane declined this invitation as he had to get home. He then ran across the ground to the next block, which led him to the houses facing Corrigan Park.

9.268 The witness said that, at the houses facing Corrigan Park, there were people congregated, taking cover. He was again unable to recall now who these people were. Mr McShane said when he told them he was trying to get to Westrock Gardens to check on his parents, they told him not to go across the open ground or he would be shot, as the shooting from Corry's Yard was still occurring and they were shooting at anyone in the open. Someone told him if he needed to go, not to look up and to just keep running.

9.269 Mr McShane said he ran from the brick houses at Springhill across to the Campbells' bungalow where he took cover by their back door (which was at the side) with other people whom (again) he now could not remember. He stated that he was then told that John Dougal and Brian Petticrew had been shot; they were in the Petticrews' house; and people could not get them out, so they were trying to cut through the walls of the bungalow from the Petticrews' into the Campbells' to take them out. He went into the Campbells' and into the back room. At that stage there were three to four people breaking through the wall and they were nearly through. He said he could not be sure, but he believed they brought John Dougal out first on a door or something. He said John Dougal was dead and was covered up. They then had to widen the hole to get Brian Petticrew out. Three or four men were taking turns trying to make the hole bigger. Mr McShane did not know any of the men but

he believed Brian's father was there. Brian Petticrew, who he described as being in a bad way, was brought out.

9.270 Mr McShane recalled Fr Murphy, the parish priest, arrived with someone else, possibly another priest or a Christian Brother, and they were looking for Fr Fitzpatrick. They were told not to go into the open ground but they seemed to disappear; he did not know where they went.

9.271 Mr McShane's evidence continued that there was a discussion that ambulances could not come in and so they needed to get John Dougal and Brian Petticrew to Whiterock Gardens. Volunteers were sought to carry them to the ambulances and he offered to help. He recalled a girl saying to be careful of the open spaces as they were shooting down the alleyways. He said that he helped to carry Brian Petticrew; he could not recall who else assisted. He was unable to remember what Brian was lying on, possibly an old corrugated iron sheet or an old door. They then set off with Brian Petticrew. They were practically running because they were worried about all the open ground as the shooting was still going on. Mr McShane stated that it was particularly bad at Westrock Drive leading onto Whiterock Gardens. On this journey, which he marked on his map, he described Brian Petticrew as looking really bad: he was very pale and drifting in and out of consciousness.

9.272 Mr McShane stated that an ambulance was parked on the bend of Whiterock Gardens and they put Brian Petticrew inside. He said people had brought John Dougal, although he could not recall who. The ambulanceman asked who the other body was and he informed him it was John Dougal and that he was dead. Mr McShane said he could not be 100% sure if both men were put in the same ambulance. He thought Brian Petticrew was put in the first ambulance, which then took off because Brian was pretty bad, but they had already lost John. He recalled that, when leaving, they all spoke about Brian and none of them thought he would live.

9.273 I note that in the account attributed to Brian Petticrew within the Springhill Massacre pamphlet, he states that he was carried on a makeshift stretcher by at least six people, including Gil McShane. Mr McShane confirmed he did not participate in the production of the pamphlet and only learned that he was mentioned within it when told.

9.274 During questioning Mr Aiken put to Mr McShane the deposition of Mr Wilson, Consultant Surgeon at the Royal Victoria Hospital, which records that John Dougal was admitted at 11.45 pm. He therefore asked Mr McShane whether the actual time of these events could have been later than he recalled. Mr McShane accepted this was possible.

9.275 Continuing with his evidence, Mr McShane said that he went into a house nearby and someone said that one of the Gargans had been shot at Westrock

Gardens. He wanted to get home as his family also lived in Westrock Gardens, explaining that the bungalows offered no protection as bullets just went straight through them. However, he said he could not get home because of the shooting and so ended up sitting in someone's house all night. He was unsure if this was in Springhill or Westrock. Mr McShane said that he was finally able to get home at 6.00 am. His parents told him they had lain on the floor all night.

9.276 In his written statement, Mr McShane said there was general talk of gunmen returning fire from Corrigan Park to Corry's Yard at about 10.00 pm or later. In his oral evidence, he said he believed that it was a lot later than 10.00 pm. He confirmed that he did not see this himself; rather it was talk he overheard, possibly the next day, from whom he could not recall.

9.277 Mr McShane described John Dougal as a good friend. He was asked by Mr Aiken whether he knew John Dougal or any of the other individuals shot that night to be in an unlawful organisation such as the IRA or Fianna. In response, he relied on his privilege. He was further asked whether, at the time of these events or at any subsequent point, he knew of anyone living around him in Westrock who was a member of an unlawful association. Again, he relied on his privilege.

9.278 Mr McShane confirmed that he had not been inside the Petticrews' on this evening and was not aware until later that his sister Teresa had been in the Petticrews' house.

Teresa McShane (now McManus)

9.279 Teresa McShane, now Teresa McManus, also gave a statement and oral evidence to the inquest. Her oral evidence was provided on 6 March 2023. In July 1972, Ms McShane was 17 years old and lived with her family, including her brother Martin, at 37 Westrock Gardens, an aluminium bungalow which backed onto Corry's Yard. She described Corry's wall as towering over their house. She said she could just about remember a ceasefire in July 1972.

9.280 Ms McShane's evidence was that, on 9 July 1972, she had been in Ballymurphy with her friend Theresa McGuinness (now McCann) seeing other friends. She stated she could hear shooting in the distance and someone said there had been shooting in the Westrock or Springhill area. She told Theresa that she needed to get home to check on her mother. She was unable to recall the time but believed it to be late afternoon or early evening. It was still bright. (In later questioning she thought it was definitely not after 9.00 pm.) She said that on their way someone, she did not know who, said to her that there had been shooting from Corry's Yard and there were people lying on the road. She did not see anyone lying on the road herself, nor did she see any shooting at this time.

9.281 Ms McShane said that because of the shooting she and Theresa cut in by the side of Corpus Christi Church and went through the houses to get to the back of the

Petticrews' house, which was nearly opposite Theresa McGuinness's home. Mr Aiken asked, at the point she turned down the side of Corpus Christi Church, how far along Westrock Drive it would have been possible to see. Ms McShane said she would have been able to see to just about the turning circle. In response to Mr Aiken, she stated she did see a car but not anyone lying on the ground. When asked why she did not reference this car in her statement, she said that she now doubted herself but thought that she had seen a car. When asked where the car was, she said she thought it was towards Heralds' house. She believed she only saw one car and did not see anyone around it.

9.282 Returning to her journey, Ms McShane had marked her route on a map appended to her statement. (Upon turning onto Westrock Drive, it is indicated that they passed Corpus Christi Church, then turned right down the area between the church and the Springhill flats, before turning left along the alleyway between the two blocks of flats bringing them out across from the Meenans' and Petticrews'). She did not recall seeing anyone else as they travelled. She stated that, as they came to the end of the gap (the area between Nos 84 and 86 Westrock Drive), they tried to make their way over to the bungalows. Ms McShane stated that when at this point, someone shouted to them not to come as "they're shooting anybody that moves".

9.283 She said they then both ran towards the Petticrews' garden. Someone shouted "get down" and they both dropped down and crawled through the Petticrews' garden. She recalled that as they were crawling shooting started again. She described small concrete posts with wire which separated the gardens and said the bullets were hitting off the fence posts and the ground close to them, causing the muck to shoot up. She said she could hear the shots and see the concrete. Ms McShane said the shots were coming from her left. She took it to be that they were coming from Corry's Yard, though accepted this was a guess. During her oral evidence, she marked on a map where she believed the bullets came from. (The area marked by Ms McShane is within the perimeter wall of Corry's Yard and appears to be the southwest corner of the large area over which the text 'Occupied by army on 9th July 1972' is written.)

9.284 Ms McShane said she and Theresa managed to get to the side of the Petticrews' house by the back door facing Bart Meenan's back door. She said there was a man standing at the corner of the Meenans' house, towards the front, and he shouted at them not to move because they were shooting anything that moved or anyone that tried to cross over to the other bungalows. While she did not know the man personally, he lived in the bungalow and so she took it for granted that it was Bart Meenan. As they could not move due to the shooting, they went into the Petticrews' house.

9.285 She said that while at the side of the house she could recall, vaguely, looking back and seeing Fr Fitzpatrick and an adult man she did not know standing still in the alleyway or the gap between the houses, explaining that it was either at the alleyway or the gap, though she was nearly sure it was the alleyway. On the map

appended to her statement, she marked the location where she saw them. This is marked as the opening of the passageway between Nos 62 and 84 Westrock Drive. Ms McShane took it that the two men were together, rather than simply being in the same place at the same time. She was asked if either of these men were carrying a weapon or anything in their hands, she responded not that she had seen. They seemed to be wanting to go over towards the bungalow.

9.286 Inside the Petticrews', she and Teresa went into the living room. Ms McShane said Brian Petticrew was lying on the living room floor and she could see blood coming out of his stomach. There was a man, whose name she did not know, treating Brian. The man told her to keep talking to Brian and to put pressure on the wound on his stomach. Brian said, "They have shot me in the stomach". Ms McShane could not recall anyone else being in the living room other than Theresa and the man treating Brian. She said both she and Theresa sat talking to Brian to keep him awake and put pressure on his wound.

9.287 It got dark and Ms McShane said she could hear banging in the house as they were knocking a hole into the house next door to try and get Brian out. She said some fellows then came in with Brian's father and put Brian on something, possibly a door, before they carried him through the hole in the wall into the Campbells' house to try and evacuate him. This was because they could not go out either door because of the shooting.

9.288 Ms McShane explained that she and Theresa McGuinness stayed at the Petticrews' house. She was unsure how long the shooting lasted. She could only recall Mr Petticrew Snr in the house and did not remember seeing Mrs Petticrew or other members of the family. In her statement she was asked if she was aware of Goose Russell or Bobby McCrudden being at the house, to which she responded that she could not remember them. Ms McShane was also asked if she recalled seeing John Dougal in the Petticrews' house at any stage. She could not recall seeing him but did remember someone saying that somebody was lying outside.

9.289 Ms McShane said she and Theresa left the Petticrews' house on 10 July when it was daylight and there was a lull in the shooting. She recalled that shooting started again later that day. At some stage the next day she heard that a priest and a man had been shot but she did not know who it was. She confirmed that she did not see her brother Martin that evening. (I found this odd when Martin McShane gave evidence that he had helped create the hole from the Campbells' into the Petticrews' and then assisted in carrying Brian Petticrew to the ambulance. Brian Petticrew's account in the Springhill Massacre booklet also refers to Gil McShane carrying him on the stretcher. It is possible that Teresa McShane did not see her brother as he lifted Brian Petticrew from the Campbells' whereas she remained in the Petticrews'; and that also appears to have been Mr McShane's position (see para 9.268 below). However, I considered there to be a wider phenomenon of Ms McShane being unable to remember, or being unwilling to name, a range of other people who are

likely to have been in the bungalow, or perhaps at other locations she had travelled through, that evening.)

9.290 In her statement Ms McShane was asked if she had seen anyone with guns and responded that she did not. Mr Aiken asked if she knew anyone in Westrock Drive and Whiterock Gardens who was in the IRA, Cumann na mBan or the Fianna in 1972. She said that she did not and that, if she did, she would be prepared to tell me. She also confirmed that she had never been approached to make a statement previously; but did attend St Aidan's school with Theresa McGuinness where she provided an account, though she did not possess a copy of this. She recalled attending St Aidan's, though she believed this to be much closer in time to the index events and not in or around 2000 or 2001.

Theresa McGuinness

9.291 Theresa McGuinness, now McCann, gave a statement and oral evidence to the inquest. Her oral evidence was also on 6 November 2023. In July 1972 Ms McGuinness was 16 years old and lived with her family at 46 Westrock Drive, one of the aluminium bungalows. This bungalow was the southernmost bungalow in the second row of four (from west to east) closest to Corrigan Park. Ms McGuinness confirmed that her family home faced the Campbells' at No 54, while their back door looked onto Corrigan Park.

9.292 Ms McGuinness recalled that the ceasefire had broken in Lenadoon on 9 July 1972, describing that it felt very tense. They had heard there was a lot of trouble in other areas but nothing was happening in the Westrock area. Ms McGuinness said the Westrock area was usually quiet with the odd shooting incident from Springmartin, and the army would have patrolled the streets. On 9 July 1972, Ms McGuinness said she and Teresa McShane (now McManus) had been in Ballymurphy seeing friends. They heard there had been shooting in Westrock and decided to go home. She was not able to recall the time but did remember that it was not dark.

9.293 She could not now recall precisely the route they took but said it would have been behind Corpus Christi Church. She was asked whether, as she was in the area of Corpus Christi Church, she saw a car near the turning circle. She confirmed she did not. They travelled to the end of the block of houses across from the Petticrews' where there was then open space between the houses and the Petticrews'. She said they were not able to cross because of shooting, which she could hear coming from her left, along where Corry's wall was. People were shouting at them not to run but when it got quiet, they ran across. She said that shots were fired across their direction, causing them to drop down and crawl through the garden. She described seeing shots hitting the grass and said that it came from the direction of her left to her right (i.e. north to south).

9.294 She said that they did not want to take the chance of going across to her house from the Petticrews' and so she and Teresa went into the Petticrews'. She was shown into the living room where she recalled Brian Petticrew was lying flat on the floor. He was conscious and was talking. An older man, who she did not know, was giving him first aid and asked her to put pressure on Brian's stomach. She recalled that she was later asked by this man to bandage Brian's feet together in a figure of eight so that they could evacuate him. An ambulance could not get to Brian in the house and so he was evacuated through the wall into the adjoining bungalow, having been placed on something to carry him through the wall.

9.295 In her statement to the inquest Ms McGuinness said that she could not remember John Dougal being in the living room; she thought he was still outside in the garden. She did not see him in the garden herself; but that is where people were saying he was. She said she could hear people saying that they could not get to him because of the shooting. She was asked by Mr O'Rourke about the discrepancy between this and what is recorded in the transcript of her evidence to the St Aidan's Inquiry where it is stated "while we where [sic] there Dougal got carried in". Ms McGuinness said that she had no memory of that now. I note that in this transcript she continued to describe being given a bandage by Mr Walsh to wrap around both Brian and John Dougal's feet to stabilise them.

9.296 In her inquest statement, Ms McGuinness stated that she recalled seeing three bodies lying at the back of the Petticrews' garden and said it was only later that she found out they were Fr Fitzpatrick, Paddy Butler and David McCafferty. During her oral evidence, she said that while she was in the Petticrews' garden she glanced behind and saw people hunkering down, she thought at the Springhill houses. She could not say that these were bodies and she appeared to change her evidence to now say that she did *not* see bodies. She did recall coming into Springhill and seeing people who she believed to be sort of hiding at the wall. (At this point in Ms McGuinness' evidence it seemed to me that she was quite confused and could not remember properly what she had or had not seen.) At the conclusion of her evidence, Ms McGuinness confirmed that she had not seen any dead bodies at all.

9.297 In the Petticrews' house, she remembered Mr Petticrew, the younger Petticrew children (although she was unsure which ones), John Petticrew, Brian Petticrew and Teresa McShane. She recalled Goose Russell and Bobby McCrudden were at the back and people were coming in through the back door of the Petticrews' house as they were trying to get to their own houses but could not because of the shooting. She stated that she and Teresa remained in the house until the next day, when it was safe to leave. Robert Russell and Bobby McCrudden were at the back door of the Petticrews' house and had shouted to be careful. Mr Russell had gone to get something for the first aider.

9.298 Ms McGuinness was asked if she saw any civilian gunmen in the area on 9 July 1972; and she stated that she did not. She was asked by MoD counsel if she knew anyone living around her who was in the IRA, Cumann na mBan of the

Fianna. She did not want to answer and, when specifically asked whether the Petticrews were involved, relied upon her privilege against self-incrimination.

9.299 As indicated above, Ms McGuinness provided an account to the inquiry at St Aidan's School, although she stated she had little or no memory of this. The transcript of this account was available. While in broad terms the account at St Aidan's corresponds with that given to this inquest, some detailed information, not provided in her evidence to the inquest, is contained within the transcript. These include a description that when she and Teresa McShane got down "here" (it is not clear where), people could not come out their doors, they were coming out the windows at the side; that if anybody went to come across the openings, that is when they were just fired at; and that inside the Petticrews' they kept low because they were scared of any bullets coming through the aluminium bungalow. As referenced above, some information regarding John Dougal is also contained within this transcript.

9.300 Further, the transcript contains a description of the injuries to Brian Petticrew and John Dougal. Brian Petticrew is described as having a few bullet wounds in him, having been shot in the back and possibly the leg; while John Dougal is described as having a "massive hole in his chest". (In the post mortem report, Dr Press records an exit gunshot wound on the front of the chest.) In the St Aidan's transcript, Ms McGuinness had again been asked whether she saw anyone acting suspiciously, to which she responded that she did not and that, "There was no gunmen or nothing at all."

Richard O'Rawe

9.301 Richard O'Rawe, previously referred to as 'SC7' in the inquest, has written a number of books about the Troubles. He provided witness evidence to this inquest in the form of two written statements and oral evidence on 22 April 2024. In light of the content of his books, and admitted IRA membership, he was asked a range of questions about potential paramilitary activity at the time.

9.302 In July 1972, Mr O'Rawe was 19 years old and lived in New Barnsley Drive. He confirmed New Barnsley to be part of the greater Ballymurphy area and a considerable distance from Springhill. In a statement to the inquest, Mr O'Rawe confirmed that on 9 July 1972 he was a section officer in the IRA. (This statement was not signed but Mr O'Rawe did adopt it as his evidence). In addition, in his book *Blanketmen*, published in 2005, Mr O'Rawe had earlier and publicly confirmed that he joined the Provisional IRA at the age of 17 in 1971. During his oral evidence he confirmed that he was in B Company, 2nd Battalion.

9.303 Regarding the events which are the subject of this inquest, Mr O'Rawe advised that he could not recall 9 July 1972 and had no knowledge of what occurred on this date. His conclusion from this was that he was not in the

Springhill/Westrock area at the time. He recalled hearing on the news, however, that five people had been shot dead.

9.304 Mr O’Rawe was asked a number of questions about his knowledge of IRA activities around the time of 9 July 1972. When asked whether, as a section officer in the IRA, he heard anything about events in Corry’s Yard on 9, 10, or 11 July 1972, Mr O’Rawe said that he heard what was on the news, as he was not involved. When asked specifically whether he heard what had happened from any sources within the IRA, he asserted his privilege. When asked whether, if he were a section officer in the IRA at the time, the IRA’s activities on 9 July would have been discussed with him, he stated that nothing was discussed with him and he knew nothing of this.

9.305 Material provided by the PSNI included a document which purported to be a file note of an HET interview with Mr O’Rawe in 2019 in relation to deaths caused by military action in West Belfast in the summer of 1972 (and therefore not limited to the events which are the subject of this inquest). In this note it is recorded that there was discussion regarding Mr O’Rawe’s activities within the PIRA in West Belfast in the early 1970s and that Mr O’Rawe stated that he was a commander in charge of approximately 30 men, with a responsibility for terrorist activity in Springhill and Westrock. It is further stated that Tommy Ramsey was another section leader operating in Ballymurphy and Jimmy Bryson, the operational commander for West Belfast at the time, gave his directions and issued arms and ammunition on a daily basis. The note records that the Provisionals had access to .303 rifles and Jimmy Bryson had a Lewis gun which fired .303 ammunition. The note further contains a description of Mr Bryson firing from a Lewis gun in the Ballymurphy area towards Corry’s Yard and Springmartin (although it is believed this does not refer to 9 July 1972). The note further records that Liam Clarke was a ‘stickie’ who operated in Ballymurphy in the early 1970s. Finally, regarding the events which are the subject of this inquest, the note records only that Dessie Wilson and Fr Raymond Murray were tasked with obtaining statements from witnesses on the Springhill Estate.

9.306 In oral evidence, Mr O’Rawe stated that he refuted every word of the file note, describing it as “inaccurate and nonsense”. During the course of his oral evidence, he was asked about specific aspects of the note. Regarding whether he had told the HET that he was commander in charge of approximately 30 men with the responsibility for terrorist activity in Springhill and Westrock, Mr O’Rawe asserted his privilege. He said he had no recollection of saying that Tommy Ramsey was a section leader in the IRA and, when asked whether Mr Ramsey was so, he asserted his privilege. In respect of the comments recorded regarding weapons and ammunition, Mr O’Rawe stated that he did not know if the Provisionals had access to .303 rifles. Regarding Jimmy Bryson’s access to a Lewis gun and the description of him firing such a rifle in the direction of Corry’s Yard on another date, Mr O’Rawe said he did not know if Mr Bryson had access to such a weapon and that he never saw anyone with a Lewis gun. Therefore, he said, he could not have told the HET what was recorded in the note.

9.307 In relation to an HET investigation relating to a separate matter, it is recorded that Mr O’Rawe stated that it would be suicidal for the IRA to enter Corry’s Yard, as it was always suspected that the army took up positions within it and no one at the time could precisely say where they were positioned or what type of observations they kept. Mr O’Rawe said he had no recollection of this either; and that he did not have an opinion on this issue as it was not something to which he would have given any thought.

9.308 Mr O’Rourke asked Mr O’Rawe about an interview he gave to the BBC programme, ‘Once Upon a Time in Northern Ireland’. Although he could not recall it at the time of giving his evidence, Mr O’Rawe accepted that he probably said during the interview that he was trained on guns. When asked by Mr O’Rourke whether it is true that he was in fact trained on guns, he asserted his privilege. Mr O’Rourke suggested to Mr O’Rawe that, in the course of the programme, he indicated he was known as a gunman within the IRA. Mr O’Rawe accepted this was said during the interview but when asked whether it was correct, he asserted his privilege.

9.309 Mr O’Rawe was referred to an intelligence document containing a report (it appears from early July 1972) suggesting that he was involved in the movement of weapons and ammunition to a house in New Barnsley. He stated that he did not recognise this. The witness was also asked about intelligence material which suggested that IRA gunmen used an M1 Carbine to fire from Springhill towards an army post at JP Corrys. Mr O’Rawe responded that he knew nothing about this. He was also questioned about a reference within intelligence material suggesting he was the IO (intelligence officer) of B Company in February 1972. Mr O’Rawe asserted his privilege in relation to this.

9.310 Mr Aiken also took Mr O’Rawe to extracts of his book *Blanketmen*, including those addressing the PIRA ceasefire which commenced in late June 1972. In this book, it is stated that “Bryson ran a very successful IRA company, whose kill rate in Belfast was second to none”. Mr O’Rawe confirmed this to be B Company in 1972. The book also states that, “In Ballymurphy the King’s Own Regiment, a novice regiment, was having a difficult time at the hands of Bryson’s men”. Mr O’Rawe did not know if this referred to the 1 Kings Regiment, but stated it to be a historical fact that 1972 was a very bloody year and a lot of British soldiers were killed in Ballymurphy. (As noted in Chapter 4, 1 Kings replaced the King’s Own Scottish Borderers, which could also have been the regiment being referred to). Mr O’Rawe was asked if this was at the hands of Mr Bryson’s company and responded that he did not know as there were more than the PIRA operating at the time.

9.311 In the book Mr O’Rawe also recounted being informed of the imminent truce at a Company Council meeting in Ballymurphy, at which twelve or so men were present, including Pat McClure (the Battalion OC), Jim Bryson, Tommy ‘Toddler’ Tolan, Paddy Mulvenna, John Stone, Dee Delaney and Gerry Kelly, who it is stated was serving life in prison for the Old Bailey bombings. (This is not the same Gerard

Kelly who was a witness in this inquest.) Moving on to the breakdown of the ceasefire, the book reports that it broke in Lenadoon, an estate in Anderstown, two weeks after it was called; and that Bryson and Toddler fired the first volley of shots from a Lewis machine-gun, signalling a restart of the war. Mr O'Rawe was asked how he found out that Messrs Bryson and Tolan had fired the first volley from the Lewis submachine gun. Mr O'Rawe stated that he could not remember; but also went on to assert his privilege in relation to this. Mr O'Rawe was asked if he had any memory of two soldiers being shot on the Springfield Road on the evening of 9 July 1972. He said that he did not. When asked what he did once the ceasefire ended on the evening of 9 July 1972, he initially asserted his privilege but went on to say that he had not a clue.

9.312 Mr O'Rawe was asked who should be asked what the IRA were doing in the Springhill/Westrock area from the time the ceasefire broke down. He responded that he did not know.

9.313 Mr O'Rawe was also asked whether he knew a number of individuals in July 1972. He said that he did not know John Dougal, David McCafferty, Brian Petticrew, John Petticrew, Martin Mulligan, Robert Russell or Joe McElkerney. He confirmed he knew Jim Bryson, Tommy Tolan, Paddy Teer, an individual named Michael Clarke from Ballymurphy, and an individual named Paddy McManus from Ballymurphy but did not know if this was the same person about whom he had been asked. He was not sure if he knew Martin Dudley, confirming that he knew he was involved in this inquest but that he certainly did not know him to speak to. He was asked about intelligence documents which asserted that John O'Donoghue was a section leader in the IRA. Mr O'Rawe stated that he could not remember John O'Donoghue.

9.314 Mr O'Rawe was then taken to death notices for John Dougal, including one attributed to the officers and volunteers of B Company, 2nd Battalion, Óglaigh na hÉireann in which regrets were expressed following the death of "Volunteer John Dougal (killed in action)". He was asked who, on behalf of B Company, would have been involved in putting this information in the newspaper. He asserted his privilege in relation to this.

9.315 Mr Aiken took Mr O'Rawe to two entries in MoD documents dated 20 July 1972. The first was in the handwritten 1 Kings Tour Diary and the second in the 1 Kings log. The diary records that at 06.00 Mr O'Rawe was stopped carrying a pistol, and the weapon was recovered but he escaped. The log entry refers to a gunman being stopped who is recorded as "probably" being Richard O'Rawe. Mr O'Rawe stated that this was not him.

9.316 I found Mr O'Rawe's evidence generally unhelpful. Given his admitted membership and role in the IRA in the relevant area at the relevant time, I have no doubt that he could have provided additional information about the activities, whatever they were, of relevant IRA personnel on the evening of 9 July 1972. He

repeatedly relied upon his privilege against self-incrimination, as he was perfectly entitled in law to do. I draw no adverse inference against him (or anyone else) on the basis of his decisions to do so. Nonetheless, he provided little or no assistance in terms of shedding light on the matters which are the subject of these inquests.

Other (non-military) evidence

Depositions from original inquest

9.317 *Mr Wilson, RVH:* Mr W Wilson, Consultant Surgeon, of the RVH, made a short deposition indicating that the body of John Joseph Dougal was admitted to the Casualty Department of the hospital at 11.45 pm on 9 July 1972, with a gunshot wound 3" x 3" in his right anterior chest wall and was dead on arrival.

9.318 *James Dougal:* There is a very short deposition from James Dougal, John Dougal's father, which was provided to the original inquest. It notes that he had been shown the body of a youth at the RVH mortuary which he had identified as that of his son, John Joseph Dougal. It also says: "I last saw my son at 9 p.m. on Sunday night in my home when I left for work."

9.319 *John Petticrew:* John Petticrew (Brian Petticrew's brother) and his father are now both deceased. On Brian Petticrew's account, his brother John was with John Dougal very shortly before John Dougal was shot. John Petticrew provided a deposition to the 1973 inquest. In it, he said that on 9 July 1972 he was playing football with some friends at St Peter's School in Britton's Parade. About 8.30 pm, he left with John Dougal. They walked back towards the Petticrews' home in Westrock Drive. They called first with Mrs Campbell who lives next door in No 54. He said that she was an elderly woman with whom he was quite friendly and that he often called in, helped her about the house, and ran messages for her. He said they left there between 9.00 and 9.15 pm, with "no intention of going anywhere in particular". As he and John came out of her house, he told John to hang on while he ran into the house and got his coat. He said he saw John Dougal dander up the street in the direction of Westrock Drive.

9.320 Then, just as he went into his hallway he heard some shots. Those were the first shots which he heard that evening. He thought he heard two shots as he went into the house. They seemed to be quite close but he could not be certain. He came back out to have a look and, as he did so, there was more shooting. He saw John fall back. He was just at the front door of the next house. Some of the shots were hitting the Petticrews' house. It seemed to be coming from Corry's Timber Yard on the other side of Westrock Drive. Mr Petticrew said he dived back inside the hallway. His father went to the door and, as he looked out, a shot was fired which seemed to be directed at him. They were not able to get out of the house until 11.00 pm. When they did so, they found John Dougal dead. This deposition makes no mention of Brian Petticrew being in John Dougal's company at any point; nor, indeed, of the deponent's brother Brian Petticrew himself being shot.

9.321 *Martin Mulligan:* Martin Mulligan also gave a deposition to the 1973 inquest. He said that on 9 July 1972 in the evening he went to Springhill Community Centre. There was supposed to be a dance on there that night. He was hanging around the Community Centre with some other boys. He decided to go home and head up Springhill towards Westrock Drive. As he walked up Westrock Drive shooting started from Corry's Timber Yard. He hid between two cars. The cars were almost opposite the path leading to some houses where Brian Petticrew lived. He could not see the full length of this path from where he was; but, as he looked in that direction, he saw John Dougal and John Petticrew. He saw them for only a moment. He said that John Petticrew disappeared first. He shouted at John to go back because of the shooting.

9.322 The next thing he heard a shot and John appeared to be knocked back by a bullet. Mr Mulligan did not see him again. (It is not spelt out that this refers to John Dougal, rather than John Petticrew; but that seems to be the obvious interpretation given that the statement related to John Dougal's death and John Petticrew was not shot.) When he saw John Dougal, he did not have a gun. The shooting continued for a long time after that and Mr Mulligan just lay between the two cars. The coroner's handwritten note then indicates that Mr Mulligan gave oral evidence to the effect that John Dougal was standing facing him when he was shot and facing *towards* the timber yard.

9.323 There is potentially some confusion as to which of the Petticrew brothers was being discussed in Mr Mulligan's deposition. He referred to the path leading to the houses where John Petticrew lived. After that, the typed deposition says that Mr Mulligan saw John Dougal and Brian Petticrew. However, the coroner has here struck out "Brian" and written "John" above this. Brian is then mentioned again on one further occasion (as the person who disappeared first) and the coroner appears to have written "JOHN" above, with a question mark in the margin. It is not entirely clear but I consider it likely that the first reference referred to where Brian Petticrew lived and that name was then simply used throughout the rest of the typed deposition when a Petticrew was mentioned; but that Mr Mulligan was describing having seen John Dougal with John Petticrew (rather than Brian) and this was corrected in his evidence. Of course, given that both brothers appear to have been in the area at the time, it is possible that Mr Mulligan saw John Dougal with each of them or all together at different points. There is no reference to anyone else being shot, however, which further supports the suggestion that Mr Mulligan was describing seeing John Dougal with John Petticrew (who in fact 'disappeared' first). Martin Mulligan also provided a further statement, which is addressed below.

9.324 *William Macklin:* William (Billy) Macklin also gave evidence by deposition to the 1973 inquest. In it, he described that shooting broke out about 8.00 pm on 9 July 1972 with shots coming from Corry's Timber Yard directed at houses in Westrock Drive. Mr Macklin said that he was with Mr Butler, his wife, James Muir (possibly Jim Moore) and possibly Martin Andrews, standing chatting at the Butlers' door. (It

is worth noting that this appears to be at odds with the evidence of Patrick Butler as to where his father was; and Mrs Butler's account in the booklet as to where she was.) One shot struck the far side of the street opposite them. Mr Macklin said that they "shouted at a number of lads on the far side of the road" to look out, as there was a sniper. Before the lads could have heard the warning "three of them were shot and fell, one shouting for the priest". (Mr Macklin does not describe who these lads were but I suspect they are likely to be Martin Dudley, Brian Petticrew and John Dougal.) Mr Macklin continued that they began to get the children into the house. Mr Butler had already gone to get the priest at the church a short distance away. He then saw Mr Butler passing at the bottom of the opposite alley, holding the hand of a nun who was with him.

9.325 Mr Macklin averred that the next thing was that Fr Fitzpatrick arrived at the Butlers' door where he was. Mr Macklin told him to go down the opposite alley where he would have met Mr Butler. Two minutes later someone shouted that the priest was shot. Mr Macklin ran down the alley where they were and saw the priest, Mr Butler and "McCaffrey" shot and lying on the ground. ("McCaffrey was consistently used in the deposition but, in context, I understand this simply to be a misspelling or misstatement of "McCafferty"). The priest was lying at the corner of Mr Foster's home (84 Westrock Drive) and Mr Butler and David McCafferty were on the ground beside a van. Mr Butler was dead; but the priest and McCafferty were still alive at that stage. Mr Macklin said he lifted David McCafferty and put him through Mr Foster's window; and some others came and lifted the priest. He turned to pull Mr Butler in but a sniper fired again. Mr Macklin slipped and then made his way down the street to get an ambulance. He had to stay at the McKennas' home as he could not go any further because of the gunfire. He said that the shooting lasted for an hour at least and that he did not hear any firing in Westrock Drive at any time.

9.326 *Samuel Thompson*: An ambulance driver, Samuel Thompson, gave evidence by deposition to the 1973 inquest in which he said that, on 9 July 1972, he was at Ardoyne Fire Station and at 10.20 pm received a call to the effect that there was a shooting at Springhill Avenue. He and Billy Williamson went to the scene, which turned out to be Westrock Drive. They there saw an injured man whom he said he then knew to be Joseph Duddy. He was lying beside a car and there was another youth lying very close to him. He was not injured but was extremely frightened of moving in case he was shot at. Mr Thompson averred that they moved the injured man but did not know what happened to the other person. After collecting him, they went to the area of Corpus Christi Church. They stopped adjacent to the church and two men came out of one of the alleyways. They took a stretcher and came back carrying a youth who was obviously dead. Mr Thompson said he then knew that to be the body of David McCafferty. His evidence at the inquest was that it would have been about 10.45 pm when they picked up David McCafferty. Although this is a relatively short and formal deposition, I believe it may be important in helping to establish a number of relevant timings in relation to the events of 9 July. I believe the reference to "Joseph Duddy" is likely to be a mistaken reference to Martin Dudley. (It is fairly clear from other evidence that neither Brian Petticrew nor John

Dougal were picked up by an ambulance from this location.) It is unclear who the other youth lying very close to Martin Dudley would have been, although it is possible that this could have been Paddy McManus.

9.327 *Gerard McMenemy:* Gerard McMenemy gave depositions in two of the inquests, those relating to the deaths of Fr Fitzpatrick and Patrick Butler. These are discussed in Chapter 10. He does not appear to have provided evidence in relation to the death of John Dougal, notwithstanding that another witness (Anne Maguire) placed him beside Martin Dudley administering first aid. Mr McMenemy's account is that he was standing at his house. He saw Patrick Butler with nuns and was later involved in taking Mr Butler's body to the hospital in a van. He makes no mention whatsoever of the shooting of Martin Dudley; a car or cars near the turning circle; or assisting Martin Dudley with his injuries.

9.328 *Brian Muckian:* Brian Muckian also gave a deposition to the original inquest. Again, this is dealt with in more detail in Chapter 10 since he gave evidence relevant to deaths in incident 2. However, in the course of his deposition he indicated that he heard shooting from his house, ran up to Westrock Drive, and saw two cars parked between 47 and 60 Westrock Drive. He understood there were people shot near the cars.

Martin Dudley's earlier accounts

9.329 Martin Dudley is obviously mentioned by a considerable number of the witnesses whose oral evidence is summarised above. It is accepted that he was shot in the back of the head at a location at or about the turning circle on Westrock Drive on 9 July 1972. He is likely to have been an important witness in the inquest if he had been able to give oral evidence. Unfortunately, this was not feasible. I set out the reasons why, and the general position in relation to Mr Dudley, in Ruling No 10, the ruling on his application for medical excusal from giving oral evidence. His GP of 30 years confirmed that Mr Dudley suffered from significant cognitive impairment and would not have the ability to assist the inquest with recall of events (or to understand the questioning or recall his answers correctly). Mr Dudley's wife had separately raised concerns with my investigator, at the time Mr Dudley was interviewed by her, in relation to her husband's ability to provide his own independent account. Independently, my investigator had her own concerns during the interview about the independence of Mr Dudley's recollections. However, as he wished to provide a statement, she proceeded and raised the issue with my solicitor afterwards, who then sought his authority for a report from his GP, both of which were provided. Mr Dudley's legal representatives also expressed their own concerns about his profound memory loss and other significant cognitive issues. This was later, however, as he was not represented at the time of his initial interview. In any event, a report was then obtained from a Consultant Forensic Psychiatrist.

9.330 The content of Dr East's report is discussed in further detail in Ruling No 10. It indicated an established diagnosis of severe Alzheimer's disease with longer term

memory grossly affected. Aside from the difficulties with long term memory, Dr East did not believe there was any prospect that Mr Dudley could understand questions put to him, apply his mind to those and give the answer he wished based on his inability to retain *new* information. He would not be able to understand the questions; nor, given the deficits in his long-term memory, be able to accurately recall events from the past. Dr East felt there were no measures that would assist in this regard and that, given the level of cognitive impairment as a result of the Alzheimer's disease, Mr Dudley would not be able to participate in the inquest. In light of these findings, I had no option but to accede to the excusal application.

9.331 A draft witness statement was provided for Mr Dudley which was prepared for him by my investigator after an interview with him on 13 January 2023. It was later signed on his behalf by his wife. In my view it would plainly not be appropriate to admit this statement under rule 17 of the Coroners' Rules since that applies where the coroner "considers that the attendance as a witness by the maker of the document is unnecessary and the document is produced from a source considered reliable by the coroner". It is difficult to say this statement was made by Mr Dudley - albeit it is plainly based on what he said - when he has not himself signed it. It is not simply a formal and uncontroversial statement; nor, in my view, is it likely to be reliable since, at that time, Mr Dudley was already experiencing cognitive difficulties. However, as noted in Ruling No 10, I consider that the draft statement can in principle be considered as a form of hearsay evidence, given that the strict rules of evidence do not apply in inquest proceedings (see, for instance, the decision of the Court of Appeal in *Re Devine & Another's Application* [1990] 9 NIJB 96). I remain of the view provisionally expressed in that ruling that this statement should be afforded little weight given the circumstances pertaining at the time when it was provided.

9.332 That said, the draft statement indicates that, in July 1972, Mr Dudley was 19 years old and lived at 68 Westrock Drive with his parents, three sisters and one brother. He was not working at the time but did help out at his father's work fixing vehicles. The draft statement says everyone who lived near Corry's Yard knew that there were soldiers inside it, although you could not see them. It continues that Mr Dudley's only memories of 9 July 1972 were going to the community centre club at 16 Springhill Avenue; but he did not know who with or how he was going there. He knew the night was nice. The draft statement indicates that Mr Dudley did not recall being in a car or driving a car. He did not own a car but his father did; however, he could not remember the make or colour of the car they had at the time. When he left the house it was quiet; there had been a ceasefire and no army were about. His next memory was being on the road and bullets hitting him. He remembered Gerard McMenemy helping him. He felt like he was very drunk and spinning and dizzy. He did not remember Paddy McManus helping him. The remainder of the draft statement deals with Mr Dudley's injuries and their effect upon him; as well as indicating that over the years he was hassled by the army who made fun of him over his injuries. The statement also indicates that at no time after the shooting did the

police approach him to make a statement; and he was not asked to attend the previous inquest.

9.333 There are, however, a number of earlier accounts given by Martin Dudley which are available. A written statement from his wife appends three documents which were read to Mr Dudley by her and my investigator and which she has indicated she is happy provide a true account of what he had previously said, such that they should be used in evidence on his behalf. These were an account provided to KRW Solicitors on 24 May 1999; an account contained in the Springhill Massacre booklet (1999 edition); and the transcript of an interview in relation to the incident (described elsewhere in this ruling as the 'YouTube video'). I believe each of these accounts would have been provided at a time when he was not suffering from cognitive issues likely to significantly impair his recollection, such as his recollection was at the relevant time.

9.334 In the contribution from Martin Dudley in the Springhill Massacre booklet he said that he was in a car heading towards the bungalows when the shooting started. He tried to get out of the car and just remembers blacking out and lying on the ground. He woke up in hospital weeks later and was told that he had been shot in the head. In light of this, Mr Dudley was unable to provide any significant detail. The remainder of the account provided in the booklet essentially deals with the consequences of Mr Dudley's injuries for him, having been shot through the back of the head. He expressed the belief that it was the army who shot him and said that everyone in the estate knew this. He did record that he supposes everyone thought he had been shot dead because he was lying on the street for so long and the people who went to help him were being shot as well. (There are some relatively minor amendments to this account from the version in the 1992 edition of the booklet, which might be suggested to put a more anti-army or pro-community spin on some aspects; but, in this case, there is nothing of particular relevance to the account itself.)

9.335 The 1999 edition of the booklet includes an article from *Ireland on Sunday* by Anne Cadwallader which purports to quote Martin Dudley in some respects. (This section of the booklet was not appended to Mrs Dudley's statement.) It quotes Mr Dudley as saying that it was a sunny evening and that, one moment he was in the street and the next he woke in hospital with a bullet through his head. The following quotation is also provided: "They wanted to get stuck into the IRA and what happened to us was probably intended as provocation." The article notes that Martin Dudley was the first to be hit. It also quotes him as saying, "What happened in Springhill was not a spray job, like the loyalists carry out. It was very deliberate, with well-aimed shots from SLR rifles, standard British Army issue, using large bullets."

9.336 The booklets also contain a poem written by Martin Dudley. The 1999 edition of the booklet says that Mr Dudley "would agree that the poem is not a masterpiece" but explains that it was written by him shortly after his release from hospital. Albeit one must allow for an element of artistic licence, given his present inability to

provide evidence it is worth noting what was said in the poem in relation to relevant matters. He describes John Dougal as “a lad both brave and bold” who “went out to save his companions although he wasn’t so old”; adding that age did not matter to the British soldiers who “gunned those young lads down”. He expresses gratitude to Fr Fitzpatrick, said to be a priest doing his duty, and also to Paddy Butler, a family man, neighbour and good friend. The poem goes on to refer to “young McCafferty” who also tried to help Mr Dudley on an “errand of mercy”.

9.337 As with several others, the KRW notes are not in the form of a statement and appear to represent a record of instructions provided by Mr Dudley. They are expressed in the first person, however. They indicate that, in the week prior to the incident, there was not much going on because there was a ceasefire on and there was no shooting or anything. On Sunday 9 July 1972, it was a summer night and daylight. Mr Dudley said he was getting ready to go down to Springhill Community Centre. He could not remember if he was walking up or down the street but he was in the street, around 9.00 pm, and all of a sudden he felt himself grow weary and spinning. He was then lying in the street, still conscious but as if in a drunken state. Up until that point, no bullet had been fired. After that, he remembered bullets clipping around his head and he was paralysed. People had told him that, after he was shot, he was lying there and “he was still trying to shoot me” but he must have fallen out of the shooter’s sight. He remembered wearing a pair of boots that he had been harping at his ma to get him.

9.338 His next memory was waking up in hospital. Again, the rest of the notes of his instructions focus on the aftermath of the incident in terms of Mr Dudley’s injuries and their effect on him, as well as his feelings of guilt about others being killed when trying to come to his aid. He recalled having been paid compensation (£30,000 in 1975) and queried why the government would have paid him that amount having stated in the papers that the IRA had launched a big attack. He indicated that he had never been called to any inquiry. He also recounted complaints of harassment at the hands of security forces since.

9.339 Mr Dudley’s contribution in the YouTube video is limited. It commences by saying that, “All of a sudden I got shot” and that he went blank. He did not know exactly what happened. He was lying on the street with bullets chipping round his head, as if in a trance or drunk, and then he remembers waking up in the hospital. Again, very little detail is provided of the incident itself or what Mr Dudley was doing before being shot.

Martin Dudley’s medical notes

9.340 Mr Dudley’s medical notes and records were made available to the inquest. There is a note indicating that he was admitted on 9 July 1972 following a “high velocity tangential missile injury” with severe blood loss. He was resuscitated and then operated upon. He was discharged on 15 August 1972. A discharge letter from

the Dept of Neurological Science gives further detail about the treatment. However, the following passage is of potential interest:

“This patient was admitted as an emergency on 9.7.72 following a tangential gunshot wound to the back of his head. It was thought that the missile that hit him was high velocity. He arrived in Casualty 10-15 minutes after the injury and at that time he was fully conscious, could give his name and address, but was bleeding profusely from the head wound, and when first seen was extremely pale with a blood pressure of 70 and a pulse of 64.”

9.341 The suggestion in this record that Mr Dudley arrived in casualty only around 15 minutes after the injury is at odds with a range of witness evidence that Mr Dudley was pinned down at the location of the car in the turning circle on Westrock Drive for quite some time. As I observe below, it may be that in such circumstances of emergency, witnesses naturally tend to over-estimate how long it takes for assistance to arise because of their heightened state of anxiety. It is impossible to know if this time estimate was based on a history given by someone in attendance, or based on a medical assessment of the state of Mr Dudley’s injuries at the time and how they would have developed since being sustained, or both.

9.342 In any event, Mr Dudley was intubated, hyperventilated and had two intravenous fluid lines erected. Following resuscitation he was x-rayed, showing extensive fracturing in the region of the vertex, extending to the lambdoid in the sagittal plane, 0.5 cm to the left of the midline. Blood replacement was given but the bleeding was so profuse that he had to be taken to theatre as an emergency. When the hair was removed, the entrance wound was identified on the vertex and two inches behind this was an explosive exit wound. Ultimately, considering the severity of the injury, at discharge he was considered to have made a remarkable recovery.

9.343 The hospital notes are hard to decipher and appear to give no history. However, he was admitted to the relevant ward at 11.30 pm from the Casualty Department of the hospital. There is no indication in the notes of when he arrived at the Casualty Department. However, other evidence suggests that he was taken to the RVH in the same ambulance as David McCafferty’s body; and the deposition of Dr Jackson in his inquest indicates that David McCafferty was pronounced dead at 10.40 pm.

Statements from medically excused witnesses

9.344 *Martin Mulligan:* Mr Mulligan was medically excused from giving oral evidence. However, there was a further statement from him, unsigned but approved, which added to his original inquest deposition which has been discussed at paras 9.321 to 9.323 above.

9.345 The circumstances which gave rise to that situation were as follows. Mr Mulligan, who no longer resides in Northern Ireland, was interviewed by my investigator in February 2023. A few attempts to arrange an in-person interview were unsuccessful and, as Module 1 of the inquest was soon due to commence, my investigator carried out the interview via telephone. She then typed up a statement in accordance with the content of his interview and posted this to him along with the exhibits for signature in mid-February 2023. Mr Mulligan advised that he had signed and returned the documents; but they were not received by the LIU. New copies were therefore posted to him on 9 March 2023. Mr Mulligan confirmed by email that these were delivered to him but, again, the LIU did not receive signed copies. Mr Mulligan had originally been scheduled to give his evidence in person during hearing module 1 but, in the event, his evidence was postponed (at least in part because of the MoD request for further searches to be carried out in relation to certain civilian witnesses). There were subsequent attempts by my investigator to secure his signed statement.

9.346 In March 2024, my solicitor spoke to Mr Mulligan to advise him of the outcome of the intelligence searches (that potentially relevant intelligence material had been returned; that he could make submissions in relation to their disclosure to PIPs and more generally; that he may wish to take legal advice, etc.) and sent him his witness bundle, with an accompanying letter, by email of 19 March 2024. She spoke with him again on 25 March 2024, at which time he made oral representations opposing disclosure of the material to the PIPs on the basis of health grounds (albeit without the submission of medical evidence) and the potential impact on himself and family members. My solicitor engaged with him subsequently regarding his statement and evidence to the inquest. During a telephone call, Mr Mulligan's son expressed his unhappiness that his father was being contacted about the case when he was so unwell, although my solicitor's assessment was that Mr Mulligan himself seemed content to engage. On 20 April 2024 he approved his draft witness statement and confirmed that it could be disseminated, unsigned but approved. It was provided to PIPs on 21 April 2024, with a brief explanation of the circumstances, and noting that a signed copy of the statement, together with marked and signed exhibits, had still not been received.

9.347 On 24 April 2024 Mr Mulligan sent, via email, medical evidence from his GP. This was brief but compelling and indicated that Mr Mulligan was very frail and unable to attend court in Belfast either in person or remotely. The excusal application was dealt with on 26 April 2024. The MoD would have preferred his attendance but recognised the practical difficulties in all of the circumstances. I accepted that he was an important witness, and should not be characterised as being uncooperative at that point, but allowed the excusal application in a short ruling, when dealing with other such outstanding applications, on 27 April 2024. As a result, the content of the new statement, which I summarise below, was untested in oral evidence.

9.348 In the approved statement from April 2024, Mr Mulligan first dealt with his deposition from the original inquest. He said he was unsure why Brian Petticrew's name had been stroked out and John Petticrew's name written above and, later, Brian's name had been left in the statement further down the page (see the issue referred to at para 9.323 above). He also said that on Exhibit MM4, the position marked as '2' indicating where John Dougal was shot should be closer to the road. (This was a reference to the map which was reproduced in the Springhill Massacre booklet. Mr Mulligan was indicating that the location of Mr Dougal being shot, which was marked as on the path between Nos 50 and 58 Westrock Drive, should have been closer to Westrock Drive itself.)

9.349 Mr Mulligan then said that he was 15 years old at the time and lived at 68 Whiterock Drive with his parents and siblings. He could remember a ceasefire about July 1972 but not much more about it. On 9 July itself, it was a late summer's evening and he was coming from Springhill Community Centre with a friend but could not remember who that was. He was walking home. He had just got to the end of the Springhill houses when the shooting started. He could not remember if it was single shots or quick fire but he knew he needed to get some cover from the shots. He saw two cars in Westrock Drive in front of the brick Springhill houses so he ran to between the cars and hid out of sight. His back was to Corry's Yard. When he was there, he could hear someone shouting that Martin Dudley had been shot but Mr Mulligan could not see him. He said both cars were facing the same direction, which was towards the bungalows near the bungalow at No 60. He could not recall any details of the cars.

9.350 Mr Mulligan then said he saw John Dougal to the left of the first car, running up the grass area and onto the concrete pathway between the bungalows, heading towards the cars and the road. The shooting was still continuing and he could not tell where it was from. He shouted at John, "Fuck sake, get back, they are shooting!". He had just said this when John Dougal appeared to be knocked backwards with force. Mr Mulligan knew he had been shot because of the force throwing him back. He then lay down on the ground between the cars. After he lay down, he could not see anything or anyone near him. He could not now remember whether it was Brian Petticrew or John Petticrew he saw and where they were. He remained lying between the cars for some time. The shooting continued and he could not move. He could hear people shouting about ambulances and an ambulance finally arrived. He ran behind the ambulance and was able to run from the area.

9.351 Mr Mulligan said that his next memory was going to the Donnellys' house, where he saw two bodies which were covered. He then left and made his way home. He later heard about the deaths and knew all of those who were shot, except for David McCafferty whom he knew only to see. He heard at the time, although did not know from whom, that the shooting had come from Corry's Yard. He said that he did not see any gunmen that day in the area. He also said that he was not a member of any organisations involved in shooting back at the army. He denied

being in the car with Martin Dudley and another person. (These were all answers provided in the written statement arising from questions which had been raised with him by my investigator at his initial interview.)

9.352 *Francis Lewsley:* Francis ('Fra') Lewsley was also excused from giving evidence on medical grounds. Thomas Reid gave evidence that his friend Fra was with him in Corrigan Park. Mr Lewsley gave a statement to the inquest in January 2023. He was to later provide oral evidence. Initially, he submitted an application for the provision of special measures when giving oral evidence, supported by medical evidence from his GP and correspondence from WAVE Trauma Centre. In due course, the application for special measures developed into an application for excusal on medical grounds, again supported by information from his GP and some information provided verbally by Mr Lewsley's wife. The MoD made some brief submissions on his position on 26 April 2024. Although no significant opposition was advanced in relation to the excusal application, it is clear that the MoD would have preferred Mr Lewsley to give evidence in order to explore the extent to which he corroborated Thomas Reid's account and whether there were inconsistencies between those accounts. It was ultimately acknowledged that this could be addressed by way of submissions. I ruled on Mr Lewsley's application on 27 April 2024 and allowed it, giving brief reasons. I was satisfied that Mr Lewsley was willing to engage with the inquest but that his health at the relevant time was such that he was just unable to do so.

9.353 The content of Mr Lewsley's statement was therefore not tested by way of oral examination. I take that into account in the weight to be attributed to it (as with other evidence or information which has not been given under oath and/or has been incapable of being tested by questioning). Nonetheless, it is appropriate to summarise it here.

9.354 Mr Lewsley was 13 years old in July 1972 and lived with his parents and siblings at 52 Westrock Drive. He described his home and Corry's Yard and its wall. The wall was made of brick with timber planks on top, above which you could just about see the roofs of the sheds. The timbers had holes knocked out and that was where the shooting on 9 July 1972 was coming from. Mr Lewsley said you could see firing from these holes in the timber on 9 July but you could not see the people with the guns. (It is unclear whether the holes in the timber referred to is the timber on top of the brick wall or, as other witnesses suggested, the timber coming down from the roof of the sheds. A natural reading of Mr Lewsley's statement would suggest he thought the shooting was coming from holes in the timber on top of the wall.)

9.355 Mr Lewsley remembered the day as being nice. He spent most of it playing football either at the circle on Westrock Drive (which he marked on a map appended to his statement) or in Corrigan Park. He thought there were six of them but the only ones he could remember were Thomas Reid and his brother Jim. He could not remember the others who were with them that day. In the early evening, they were in Corrigan Park and heard shooting coming from the direction of the estate, so they

ran up the hill within the park at the back of the goal post where they had a good view of the estate and Corry's Yard. He was standing at the top watching what was going on and could hear "bullets whizzing" over the top of his head and hitting the ground behind him and lifting clumps of earth up. People in the estate were shouting to them to get down. He said the bullets were coming from the direction of Corry's Yard.

9.356 Mr Lewsley then remembers seeing someone lying in the garden of the house opposite his (which would be No 60 Westrock Drive). He saw his mother coming out of her front door to try to help the person. He could see bullets hitting off the ground beside his mother and he was shouting at her to get back. She could not get across to the person lying on the ground and went back into the house. Mr Lewsley did not know it at the time but he said that the person was John Dougal.

9.357 People at the houses in Springhill and Westrock were shouting at them to come down, so they moved along the brick wall and made it to the area where they believed the brick houses started and then climbed down over the wall. There were people at the other side waiting to help them and Brian Muckian (who was the football manager in their local team) lifted him down and then took them to his house. Mr Muckian said that he would not be able to get home because of the shooting but that he could stay at the Muckians' house and Mr Muckian would contact his mother. After a while, Mr Lewsley decided that he was going to try to get home, so he walked up the passageway between the houses. (He marked this route on a map appended to his statement.) When he got to the end of the passageway, facing 80 Westrock Drive, he could see two bodies lying outside the Fosters' house, behind the Petticrews' garden. Not far from the two bodies was another person who was wearing a light-coloured top lying face down; and Mr Lewsley could see blood on his back. He heard someone say that he was dead. Some men went out with what looked like a corrugated iron sheet and lifted the body onto the sheet and he saw that it was David McCafferty. He later found out that the other two persons were Paddy Butler and Fr Fitzpatrick. He marked the locations of their bodies on the map at position 'C' (just to the south of the southeast corner of No 84).

9.358 Mr Lewsley's statement continued that he thought after Dee McCafferty had been moved they lifted Fr Fitzpatrick and Paddy Butler into the Fosters' house and when they were doing this the shooting was still going on. From where he was standing in the alleyway, he could not see Corry's Yard. Because he could not get home he went back to Brian Muckian's house. It was packed full of people who were stranded and could not get home. He stayed the night there and somehow Brian Muckian was able to get word to his mother that he was OK. He got home the next day and the whole side of the bungalow was covered in bullet holes. His mother told him they had to lie on the floor all night. He remembered that a camera crew turned up and Jim Logue (who is now dead) went and spoke to them and told them what had happened.

9.359 Mr Lewsley said that he had known Margaret Gargan really well as she played football with him most days and was a great footballer. He could not remember any ambulances coming into the estate but he had heard that they were at the back of Corpus Christi. He did not see Martin Dudley or any cars at any point. He also did not see anyone else shooting back towards the yard. He had never previously been approached by anyone to make a statement in relation to what he witnessed.

Accounts in the Springhill Massacre booklet

9.360 I have discussed the content of the Springhill Massacre booklet in Chapters 5 and 6 and, as it arose in the course of some witnesses' evidence, to some degree above. I have considered this in relation to the events forming the focus of incident 1 in this inquest. The most relevant portions of the booklet in this regard are: (a) the content of the Foreword and of the 'IRA timetable' (which places the commencement of the shooting at 9.50 pm); (b) the contributions from Martin Dudley in the form of a poem and account from him; (c) the contribution from Mrs Dougal about her son John; (d) the account given by Brian Petticrew; (e) the account given by Robert Russell; (f) the account given by Eyewitness One; and (g) the account given by Eyewitness Two, namely Gerard Heath. Other portions of the booklet (including the contribution from Margaret Butler describing her experience of the events and the account of Eyewitness Four) also include relevant content which was relied upon by the MoD.

History given in autopsy report

9.361 The autopsy report in relation to John Dougal records a history as follows:

"On the evening of July 9, 1972 there was a lot of shooting in Westrock area between army and snipers. This boy is alleged to have been walking towards the home of a friend in Westrock Drive between 9.30 and 10.00 pm when he was shot. He was taken to hospital where he was found to be dead on arrival."

9.362 A letter from the Scenes of Crime Officer (SOCO) of 22 August 1972 to the RUC Fingerprint Branch in relation to the police investigation referred to the murder by shooting of John Dougal "between 9.30 and 10.00 pm" in Westrock Drive. The officer, who had attended the post mortem, set out the following in the course of the letter:

"The deceased was leaving the home of his friend Brian Pettigrew in Westrock Drive when a sniper fired on them from J P Corry's wall, fatally injuring Dougal and wounding his friend".

9.363 It is unclear from where or whom this version of events came. The SOCO also forwarded material to the Department of Industrial and Forensic Science (DIFS), with the following summary:

“The deceased was leaving the home of Brian Pettigrew (wounded) at Westrock Drive when he was shot by a sniper from the direction of J P Corry’s wall. This occurred at approximately 9.30 pm on 9/7/72.”

Police information

9.364 The RUC Duty Officers’ Report for the relevant period notes the following events relevant to this location:

“10.14 pm - Burst of 15/20 rounds at J.P. Corry’s Wood Yard, from Corpus Christi Church.
10.24 pm - Fire returned - 3 definite hits claimed. One body lay on road for some time before being dragged away.
11.05 pm - Report of gun battle in progress in Ballymurphy area.”

9.365 There is no record of any firing at the location earlier than 10.14 pm in this particular report. However, the police information sheets for the same period (Sheet No 191(1)) do record some gunfire at various locations “from logs” at an earlier point. (It is not clear if these are police logs or army logs, I would imagine the former. The police tended not to keep logs in the same way but to record matters in a C6 incident book. I also understand that the communications centre information is likely to have come from the army.) These sheets provide more information than the summary report which is prepared by the Duty Officer; and may represent the basic data on which that report is based.

9.366 This section of the police information sheets records that, at 20.45 on 9 July there was “automatic fire heard in Springfield area” and then, at 21.49, a “large number of shots heard from Springfield area”. (Neither of these incidents are reported, or otherwise explained, in entries of similar times in the army logs, whether the Battalion Log or the Brigade Log. If they came from army logs, it seems unlikely that this was from C Company, who would be more likely to give a more precise location.) A police “communications” record sheet has entries which are in similar terms to those in the Duty Officers’ Report. An entry at 22.14 notes 15/20 shots at Corry’s OP from Corpus Christi. A record with the time obscured by hole-punch marks then notes automatic fire at Corry’s OP from Corpus Christi with fire returned and three hits claimed. (It seems likely that the police received this information from communications between the RUC and the army or directly from army records.) The next entry which appears to be at 22.44 or thereabouts (it is again

difficult to read the time, in particular the last digit) is of a “gun battle” at Corry’s; followed by an entry at 22.55 recording blast bombs at Corry’s Yard. I consider this information – though limited and basic in nature – may assist to some degree in filling the gap left by the absence of the army radio logs at company network level.

9.367 The following entries from the Duty Officers’ Report appear to be relevant to the injuries sustained in the course of incident 1:

“(17) About 12 m.n. on Sunday the 9th July, 1972, the body of an unknown youth was admitted to the Royal Victoria Hospital. Deceased had gunshot wounds to the body. No other information at present.

...

(19) Between 10 p.m. and 11 p.m. on Sunday the 9th July, 1972, the under-mentioned were admitted to the Royal Victoria Hospital with gunshot wounds:-

(a) Martin Dudley, 68, Westrock Drive, Belfast, 18 years. He has very serious gunshot wounds to the head.

It is stated by the youth’s father that he was shot from J.P. Corry’s yard when standing out side his own door.

(b) Brian Pettigrew, 66, Westrock Drive, Belfast, 17 years. Gunshot wounds to the body. Seriously ill.”

9.368 The police information sheets in relation to the same period also record the following relevant information from the Duty Officer:

“Deceased. ...

A 17 yr. youth found in Westrock Drive, shot in chest. Not identified.

Injured. Martin Dudley, 20 yrs. Brought in to R.V.H. from S’hill area, serious head wound. Address not known.

Brian Pettigrew, 17 yrs. 56, Whiterock Drive, gunshot wound to back received in Westrock Drive.”

9.369 The following RUC Duty Officers’ report (for the 24-hour period ending at 8.00 am on Tuesday 11 July 1972) refers back to the finding of John Dougal’s body in the following terms:

“Reference 191/72 (17) and (31) the body has been identified as John Joseph Dougal, 16½ years, Labourer (Roman Catholic), 91 Springhill Avenue. His body had been found in Westrock Drive shortly before midnight.”

Military evidence potentially relevant to John Dougal’s death

9.370 There was limited, if any, direct evidence provided by the military in relation to the events being addressed in incident 1. As outlined in Chapter 4, the MoD founded itself principally on the contents of the ciphered statements, portions of which are discussed further again below.

9.371 SM344, a Sergeant in the RMP, gave evidence in this inquest. However, I note that he had also provided a short deposition dated 26 July 1973 to the original inquest. In his evidence before me he said that he did not remember this but thought it was correct. It records that, on 10 July 1972 about 0900 hours, he received information of “a shooting incident which occurred between 2000 hours, 9 July 1972 and 0100 hours, 10 July 1972, in the Westrock Drive area of Belfast”. (The depositions of SM345 and SM346 are in similar terms.) It is difficult to know where the time of 20.00 came from. It may simply be that this is the earliest time mentioned in the ciphered statements associated with the RMP investigation into the relevant shooting incident; or, perhaps more likely, that this was the earliest time when the RMP investigators thought a shot had been discharged by the army. Assuming it was the latter, this may well be because in the RMP plan four rounds were thought to have been fired from Position A (likely therefore by Soldier D) at 20.00: see para 4.139 of Chapter 4. As I have explained, I do not think that assessment is supported by Soldier D’s statement: see para 4.140(a).

The ciphered statements

9.372 The content of the ciphered statements in general is plainly relevant to what was occurring at or about the time John Dougal was shot; in particular, the claims that soldiers positioned in the wood yard were the subject of a sustained and coordinated paramilitary assault from various quarters. I have taken the content of the statements into account in that regard. I have also, however, sought to ascertain whether any of the ciphered statements may in fact describe the circumstances of the shooting of John Dougal in particular. I have already commented that it is extremely hard to match up the hits claimed by the ciphered soldiers with the other evidence

available in the inquest in relation to the deaths and serious injuries sustained by civilians. On occasion there may be some similarity in time, or location, or circumstance; but it is rare for all of these to match, even with some allowance for error or misdescription.

9.373 I have found no description in the ciphered statements of the shooting of a person in or at a car which appears to relate to the shooting of Martin Dudley. The only reference which might encompass this is in Soldier E's statement, where he says that he "fired four aimed shots at the group of armed men in the vicinity of the cars, and smashed the windscreen of the Triumph". Soldier E does not describe hitting anyone during this episode of shooting. Immediately before and immediately after describing these shots his statement is describing the action of two *other* men, who ran from 50 Westrock Drive across to No 56.

9.374 It can be suggested that Soldier E's statement could be describing John Dougal when referring to these two men. The relevant extract (just before Soldier E describes swapping position with Soldier A) is in the following terms:

"At the same time, I saw a further two men run from 50 Westrock Drive across the grass towards 56 Westrock Drive. The man leading was about 6'0" tall, slim build, with dark, brushed back hair, and wearing a long dark coat. He was carrying an SMG in the ready position. The man behind was smaller, about 5'6" wearing blue jeans and carrying a pistol in his hands. I fired four aimed shots at the group of armed men in the vicinity of the cars, and smashed the windscreen of the Triumph. The man carrying the SMG fired a burst of about thirty rounds at my location. Due to the aperture I was firing through, I was forced to fire left handed. As soon as I fired my rounds, I fell to the ground behind some sandbags. As I did so, the rounds from the SMG struck the asbestos just above my head. I was the only person of the patrol firing at this time, and I was informed by Soldier "A" of my unit, who was positioned about 10 yards east of me at a lower level on the wood pile, that one of the gunmen, located on the grass in front of 92 Westrock Drive had dropped to the ground clutching his chest and crawled out of sight between the flats."

9.375 This location - coming from 50 Westrock Drive across to No 56 - is the same location from where Brian Petticrew described John Dougal and his brother John coming (between the Maguires' bungalow towards the Petticrews' bungalow, on their way back from Kate Clarke's house shop). It is also the location from where Johanna McCullough said she saw John Dougal coming before he was shot. It is perhaps also notable that Soldier E was in OP Echo at this stage, at the very top of

the main woodshed, from where Thomas Reid described seeing flashes of gunfire. Soldier E does not provide a time for seeing these two armed men but he seems to suggest it was about 20.30, at the time when the two cars arrived and (as described in his statement) eight armed men deployed. I note that he does not describe hitting, killing or injuring either of these two men. He went on to describe giving covering fire for Soldier A who was changing position in the wood shed; firing towards men running along the path past the new community centre without result; and later hitting a gunman at 9 Westrock Gardens.

9.376 The other significant potential reference to John Dougal in the ciphered statements is that described by Soldier A when firing at gunmen in the vicinity of 41 Westrock Drive. He first describes seeing Soldier E connect with a gunman running into the Westrock flats. Although this man was said to have been hit in the chest – and, it seems to me from the description, must have been shot in the back through the chest as John Dougal was – the location given is inconsistent with my assessment of where John Dougal was when he was shot on the basis of the witness evidence. The man Soldier A’s statement describes was running into the “Westrock Flats” (which I take to be a reference to the Springhill Flats) and was then “dragged into an alleyway amongst the flats”. I do not consider this to be likely to be a description of the shooting of John Dougal. It may be relevant, however, insofar as it provides a description of a gunman being shot in the back as he ran *away* from Corry’s Yard.

9.377 Turning back to the men in the vicinity of 41 Westrock Drive. The relevant portion of Soldier A’s statement is in the following terms:

“The main elevated OP occupied by Soldier “E” again came under fire from numerous positions surrounding the Wood Yard. The time at this stage would have been about 2130 hrs. I then saw two gunmen leave their cover in the vicinity of 41 Westrock Drive. I would describe one of these as about 18-19 years, wearing light blue jeans, brown jacket, and with long, dark hair. I clearly saw him to be in possession of a short-barrelled weapon carried in the ready position in front of him. The second gunman was dressed in all dark clothes, and had long, dark hair. He was about 18-20 years of age. I clearly saw him to be in possession of a short-barrelled weapon resembling a pistol. I took aim and fired 3 x 7.62mm rounds at the two men, and saw that the rounds had the desired effect of injuring the two gunmen. I saw both of them fall to the ground. One of these men got dragged way into concealment, and the second man was left lying on his back. I believe I killed this man. The time at this stage was about 2130 – 2140 hrs.”

9.378 This was also immediately before Soldier A changed position with Soldier E, which he goes on to describe. It seems, therefore, that Soldier E's description of the two gunmen coming from No 50 Westrock Drive and Soldier A's description of the two gunmen being shot near 41 Westrock Drive occurred at or about the same time. As appears from the above excerpt, Soldier A timed the two soldiers' change of position shortly after what he had just described, therefore at around 21.40 or shortly after. For the reasons explained later, I consider that there are similarities between Soldier A's description of this incident and the shooting of Brian Petticrew and John Dougal such that I consider it more likely than not that Soldier A was seeking to explain their shooting by him.

9.379 As discussed at para 4.127(viii) within Chapter 4, I think there is a clear discrepancy between the times attributed by Soldier A and Soldier E to this change of position in the woodshed. Taking into consideration the other evidence as to the timing of shooting at the car or cars at the turning circle, I consider that Soldier A's estimate of 21.40 or shortly after this is much more likely to be correct.

9.380 Given that Soldier E describes two gunmen at 50 Westrock Drive and Soldier A describes two gunmen at 41 Westrock Drive around the same time, it is worth considering whether they could in fact have been referring to the *same* two men with one of them mistaken as to location. I consider there to be a strong likelihood that – assuming Soldier A's account in this regard is not entirely fictitious or wholly erroneous – he was describing an incorrect location. That is primarily because no other witness describes two men being shot (with one killed and one injured) in or about the location of 41 Westrock Drive that night. I also consider it unlikely that a line of sight would have existed at or towards the northern end of 41 Westrock Drive from Soldier A's position.

9.381 Soldier A describes 'Man A' (as I will refer to him for the purpose of this discussion) as 18-19 years old; wearing light blue jeans and a brown jacket; with long, dark hair; and in possession of a short-barreled weapon. He describes 'Man B' as about 18-20 years old; in all dark clothes; with long, dark hair; and also in possession of a short-barreled weapon resembling a pistol. Meanwhile, Soldier E describes 'Man C' as about 6'0" tall; slim, with dark, brushed back hair; wearing a long dark coat; and carrying an SMG. He describes 'Man D' as smaller; about 5'6"; wearing blue jeans; and carrying a pistol.

9.382 In very basic terms, each soldier describes a man in dark clothes with dark hair; and a man in blue jeans with a short weapon. To that extent, there is some similarity. There are, however, several discrepancies in the descriptions. Some of those could be accounted for simply by the fact that each soldier does not describe the same attributes (e.g. Soldier A does not mention build or height; and Soldier E does not mention approximate age). I consider it quite possible, on these limited descriptions and leaving aside for the moment the question of location, that Man A and Man D could be the same person. There is nothing inherently contradictory between the two descriptions. It is less likely that Man B and Man C could be the

same person, given that one soldier describes him carrying an SMG and the other describes him carrying a pistol. There could, of course, have been some overlap between the descriptions, if there was at least one other gunman in the area also, who was not seen by one of the soldiers.

9.383 The other reference within the ciphered statements which appears to be particularly relevant is within the statement of Soldier F who said that he saw body of a male lying on his back in the waste ground or garden of 60 Westrock Drive (the Tutons' bungalow). The position was marked in the eastern garden of 60 Westrock Drive on the RMP map as a position of a fallen gunman, but without explanatory text in the map legend. This obviously lies close to location of John Dougal, as described by civilian witnesses.

SM100

9.384 In terms of other military evidence, the evidence of SM100 is the most relevant. It is addressed, insofar as relevant to incident 1 in particular, at paras 4.284 to 4.295 in Chapter 4. A brief summary is set out below. SM100 said that he and Cpl SM10 went to patrol the yard, he thought after SM117 had reported that shots were being fired into the yard from the area of Corpus Christi Church. When he and SM10 went down to the bottom of the Corry's site there was shooting from the area near Corpus Christi but he could not see the gunmen. He believed SM10 reported this back to the main camp. In his evidence, there had been shooting "all day" at Corry's and he had heard occasional shots. He heard two or three around the time he went with SM10.

9.385 SM100 then gave evidence about being deployed at another location, outside the main woodshed and towards the eastern side of Corry's southern boundary, to guard a hole in the outer wall. He accepted that he would have been there at around 10.00 pm. He said in oral evidence that going down to the main woodshed must have been about half an hour before that, although he was not sure of timings. (It is possible, therefore, that he and SM10 could have gone down to investigate shooting at Corry's around 9.30 pm; but that is only a very rough estimate.)

9.386 After SM10 had reported back to base, SM100 recalled hearing the vehicles arriving at the yard (which he assumed was the QRF) and was aware of other soldiers taking up positions in the main wood shed. It 'kicked off' with more intensive gunfire after the QRF arrived; with SM100 hearing incoming fire as well as outgoing fire. The incoming fire was greater than the outgoing fire and consisted of both high and low velocity rounds. SM100 was not very clear on timings but thought the escalation in firing could have been around 11.00 pm, with his having seen a gunman at the hole in the wall *before* the more intense shooting occurred.

9.387 SM13 gave evidence about what he believed he had heard in the hours or day after the shooting. His belief was that John Dougal had been at Corrigan Park. He believed he had heard that Kgn Felmingham had shot John Dougal and, later, he assumed that this soldier had also then shot Fr Fitzpatrick. I found no other support in the evidence for the suggestion that John Dougal was in Corrigan Park at the relevant time.

Army radio logs

9.388 The other evidence available from the army, in documentary form, came from the radio logs discussed in detail in Chapter 4. The first mention of shots at the location in the Battalion and Brigade Logs is at 21.00 (see paras 4.146 and 4.174 respectively). The 1 Kings Tour Diary says that that time is when gunfight began (see para 4.194), suggesting that those shots may have been viewed as significant by the army. The Battalion Log records three hits being claimed at 22.24 (see para 4.150), albeit that, by that time, one man was said to have lain for a long time before being dragged away. That accords with the further report in the Brigade Log timed at 22.28 (see para 4.175) also indicating that three hits were claimed and one gunman was seen to lie in the road. The shooting of the three civilians therefore appears to have happened before 22.24 therefore. I think it likely that this may well have included the shooting of Martin Dudley and/or perhaps John Dougal. I say so because of the reference to one man lying “for a long time before being dragged away”, which accords with the civilian evidence in relation to the recovery of John Dougal. At the same time, the reference in the Brigade Log to a gunman being seen “to lie in road” may more naturally be read as a reference to Martin Dudley, given that he did in fact lie in Westrock Drive rather than the garden of a bungalow. The absence of any information in the Battalion Log as to what was happening between 21.00 and 22.03 (when there is a further report from the location) is the subject of comment in Chapters 4, 10 and 12.

9.389 After the entries claiming three hits at 22.24/22.28, the next recorded hit from C Company noted in the Battalion Log was at 22.56 and in the Brigade Log at 22.55. In my view it is odd, when considering the totality of the evidence available to me in the inquest, that only four hits in total are recorded in the Battalion and Brigade Logs in the Springhill area that night; and only three hits claimed by 10.24 pm.

9.390 I have also analysed the picture emerging from the ciphered statements in terms of (possible) hits claimed: see para 4.121. I think it notable that six hits or possible hits – those I have labelled Hits 2-7 – are in the 9.30 to 10.00 window. The RMP plan (see para 4.139) also notes two hits at 21.30; two hits at 21.50; one hit at 22.00; and one further possible hit at 22.00.

9.391 An entry on the Brigade Log at 01.30 on 10 July 1972 (see para 4.186) suggests that David McCafferty was admitted to hospital at 22.45 (which may assist with

timings discussed below). An unidentified person named Mr B – later identified as John Dougal – was recorded as being admitted at 22.45 also. However, this was later corrected in the logs to an admission time of approximately 23.30 in serial entry 11 in the Battalion Log for 10 July at 10.00. That entry also has a note in the “action” column in the following terms: “KINGS card D117a. S/L poss FO Sean Doyle Slua.” This indicates the army view that John Dougal was a section leader, and possibly the Finance Officer, of the Sean Doyle Sluagh of the Fianna. The reference to the Kings card is interesting and suggests to me that John Dougal may have been someone in respect of whom an intelligence card was kept in the Kardex system described by SM207 in his evidence (see para 4.276).

Discussion of particular aspects of the evidence

9.392 Trying to piece together precisely what was happening at the time of the outbreak of the shooting at or around the circle area on Westrock Drive on 9 July 1972 has been extremely difficult. There is a range of conflicting evidence. The ciphered statements do not present a clear, consistent and coherent narrative; and the statements of Soldiers A and E in particular are hard to reconcile with the army logs. The army narrative conflicts with the civilian narrative; and there are conflicts between several civilian accounts also. If there was wrongdoing on either side – or both – it is likely that some accounts are not entirely truthful, adding to the confusion. It is not possible at this remove to resolve as precisely as I would wish what was happening, when and why. In the discussion which follows, I have tried to resolve some of the major issues as best as is possible. Ultimately, the focus of the inquiry in this incident, however, has to be the time, location and cause of John Dougal’s death. I therefore conclude by focusing on the evidence in relation to his actions at the time of his death and, in particular, the accounts as to this which I believe to be credible.

9.393 As I have also done in relation to incidents 2 and 3, I have tried to ascertain from some fixed reference points and the evidence available as clear as possible a sense of the time of John Dougal’s death (or, in his case, the time of his being shot). That ought to assist with understanding precisely what else was, or may have been, happening around that time. I have also tried to form an assessment of when the shooting incident commenced, the evidence being to the effect that John Dougal was likely to have been shot sometime towards the start of the incident (or, at least, towards the start of shooting at the circle area). In addition, I have tried to form an understanding of what cars were present in or at the circle area and why, since a strong theme within the eyewitness evidence was that John Dougal was near a car which was stopped on Westrock Drive at the time when he was shot; and an understanding of what was happening in relation to the cars is likely, in my view, to inform an assessment of what was in the mind of any soldiers covering that area from Corry’s Yard.

Time of John Dougal being shot

9.394 The deposition of James Dougal (John's father) for the original inquest said that he had last seen his son at 9.00 pm on Sunday 9 July in his home when he (James) left for work. I am sceptical about the truthfulness of this account for reasons discussed below but, if it were correct, the time of John Dougal being shot would have had to have been later than 9.00 pm. There was certainly no sense from the Dougal family account at the time or in the Springhill Massacre booklet that John Dougal had been shot by or before 9.00 pm. It seems that, if his father did not see him when he left for work, he was looking for him at or around that time.

9.395 John Petticrew times John Dougal's death shortly after leaving Kate Campbell's, which in turn was around 9.00 or 9.15 pm on his account. If that was correct, John Dougal would have been shot (say) between 9.05 and 9.20 pm. Brian Petticrew thought that his brother John and John Dougal had gone to the shop around 9.00 pm. This was different from what he had said in his earlier account in the Springhill Massacre booklet, which suggested 9.30 pm. In his oral evidence, he said 9.00 pm just stuck in his head, which I did not find particularly persuasive. (Ultimately, he seemed to come down somewhere in the middle, suggesting that John Petticrew came in about 9.00 pm and they sat together for about 15 minutes or so.) Taking each of these times and allowing five minutes for the two Johns to go to the shop, make their purchase and return, might suggest a time of the shooting between 9.05 and 9.35 pm. However, I consider that the earlier account in the Springhill Massacre booklet is more likely to be accurate than Mr Petticrew's more recent evidence. If so, that would place John Dougal's death shortly after 9.30 pm.

9.396 Mr "B", who was subsequently confirmed to be John Dougal, was apparently admitted to hospital around 23.30, according to the Brigade Log entry referred to at para 9.391 above. However, the deposition of W Wilson, Consultant Surgeon, at the RVH, stated that John Dougal's body was admitted to the Casualty Department at 11.45 pm. I am inclined to think that the latter of these is likely to be more accurate. One would expect the hospital to have contemporaneous notes of when the body arrived and that care would be taken to get this right in a formal deposition for an inquest. In any event, there is not a huge discrepancy between the two times (and the report from the night before which had suggested an admission time of 22.45, in circumstances where the identity of the body was not even known at that stage, was corrected). A hospital admission time of 23.45 chimes with the weight of the civilian evidence that it took some time for John Dougal's body to be retrieved and then evacuated out through the wall of his home and through Kate Campbell's bungalow before being transported to an ambulance in Whiterock Gardens. Given those factors, the time of hospital admission is probably not a particularly reliable indicator of the time of the shooting.

9.397 In the deposition of Samuel Thompson, the ambulance driver, he said that there was a call at 10.20 pm in relation to a shooting. It is unlikely that a call for an ambulance would have been made unless someone had actually been seriously

injured in a shooting. It might well be that that person was Martin Dudley rather than (or in addition to) John Dougal. However, it seems likely to me that the first significant injury would have occurred sometime relatively shortly before that telephone call was made, allowing time of course for someone to access a telephone. That might suggest the initial shooting and injury sometime between 10.00 pm and 10.20 pm. As discussed in Chapter 10, since it appears that the ambulance driven by Mr Thompson picked up Martin Dudley and David McCafferty's body and made it to the hospital by 10.40 pm or thereabouts, it may be that the emergency call occurred slightly earlier than suggested in Mr Thompson's deposition (or perhaps simply that the ambulance was extremely fast in reaching the scene, recovering the casualties and making it to the hospital).

9.398 Patrick Butler thought that the initial firing at the car started about 45 minutes to an hour before the ambulance arrived to assist Martin Dudley. Again, this was plainly an approximation. I suspect such estimates may tend to over-state the time period since, in a situation such as that where one is awaiting the arrival of help, it can frequently seem to take longer than it actually does because of one's heightened sense of urgency. In any event if the ambulance arrived between (say) 10.20 and 10.30 pm, this estimate gives a range of the initial shooting incident at the car of 9.20 to 9.30 pm or 9.35 to 9.45 pm, depending upon whether the figure of 45 minutes or an hour is correct.

9.399 Thomas Reid gave direct eyewitness evidence in relation to the shooting of John Dougal. He estimated the time of the events he described as being about 8.00 pm. He was assisted in his estimation by the fact that his brother had come to call him for tea. I acknowledge that this may be a reference point which supports his estimate of the time. Nonetheless, he accepted in his evidence that he could be mistaken about the time. He did recall that it was still bright (and, therefore, likely before 10.00 pm in my view). In light of the evidence discussed above, and my assessment of how the events and timings of the evening fit together, I consider it likely that Mr Reid placed the events he witnessed *earlier* in the evening than when they actually occurred. I would be hesitant about relying on the time estimate of an 11-year-old who had been out for hours playing in the sun and unlikely to be keeping a track of time, particularly so many years later. I wonder, perhaps, if in fact his brother was coming to call him in for the night, rather than calling him in for tea. Fra Lewsley's statement did not really assist on the timing issue. He did recall playing football at two different locations that day, the circle and Corrigan Park, rather than being in Corrigan Park all afternoon; although he also mentions the shooting happening the early evening.

9.400 The early histories given to police and/or at the hospital appear to have placed John Dougal's shooting between 9.30 pm and 10.00 pm, which is what is set out in the autopsy report and SOCO correspondence referred to at paras 9.361 to 9.363 above (with the last of these letters referring to approximately 9.30 pm). Although there is a lack of clarity as to precisely how or when this estimate was given, I consider this more likely to be accurate an impression formed and recalled

by a civilian witness. The information is likely to have been given very shortly after the shooting, by someone who had been at the scene in some capacity, and to someone in authority with some further responsibility in relation to the death or the body.

9.401 Mary Dougal (now Judge) gave evidence that Hugh McMullan came just after 10.00 pm to tell them that John had been shot. If that is correct, John Dougal must have been shot before 10.00 pm. Unfortunately, it is hard to know how accurate Ms Dougal's recollection is in that regard; or how soon after John Dougal's shooting Hugh McMullan may have become aware of it and how quickly he then went to the Dougal's house. That evidence may be taken to suggest, however, that the shooting was sometime around or shortly before 10.00 pm.

9.402 Trying to make the best I can of the varying timeframes, it seems to me that John Dougal was likely shot between 9.00 and 10.00 pm. Indeed, within that timeframe, I also think it likely that his shooting probably occurred in the later half, that is, between 9.30 pm and 10.00 pm. I say that principally for three reasons:

- (i) First, I think it unlikely that there was a very long period of time after the initial shooting or shootings and the call to the ambulance centre which is recorded in Mr Thompson's deposition at 10.20 pm. It makes no sense that, after a very significant injury had been sustained – whether by Martin Dudley, Brian Petticrew and/or John Dougal – there was a period of an hour or more before a telephone was accessed and a call for ambulance assistance made. Even allowing for some time for panic, reaction, hesitation and locating a telephone, I consider the time was likely to be much shorter than that, placing the injury or shooting towards the latter part of the window.
- (ii) Second, the early histories given by the first person or persons reporting the shooting appear to have placed it in the 9.30 to 10.00 pm window, as reflected in the history in the autopsy report. This is likely to be based on contemporaneous information provided very shortly after the death by someone who had been in the area or by the ambulance driver who spoke to persons at the scene.
- (iii) Given the time of the summer with the bright night and very long stretch into the evening (with sunset just before 10.00 pm), I think it likely that those trying to remember the events, and recalling that it was still daylight at the time, are more likely to wrongly assume that the events they recall were earlier than in reality, rather than wrongly placing those events later than they were in reality.

When the shooting started

9.403 Another way of potentially approaching the same issue is to examine the evidence as to when the shooting started in the area. Richard Clarke's evidence, for

instance, was persuasive that Brian Petticrew and John Dougal were each shot quite quickly after Martin Dudley had been shot, with a matter of minutes. Gerard Heath's evidence was to similar effect.

9.404 However, this task is fraught with difficulty for a number of reasons:

- (a) First, because several witnesses who heard or saw shooting have no reliable means of ascertaining or anchoring the time when this was (and are left with having to make impressionistic estimations). By way of example, Gerard Heath initially thought that the events he described occurred around 6.00 pm, long before any other witness suggested. He later acknowledged that it was likely to be later in the evening. As I have previously indicated, in light of the bright day and stretch in the evenings, I think it more likely that witnesses recalling an event in daylight will have mistakenly ascribed an earlier time to the event than in reality, as opposed to mistakenly ascribing a later time to it. There were also strong indications of this in some of the military evidence I heard about other events that day.
- (b) Second, because it is not necessarily clear that all witnesses are describing the *same* shooting, if there happened to be different bouts of shooting at different periods and/or there was continual rather than continuous shooting.
- (c) Third, some witnesses did not themselves see shots being fired or physical evidence of this but, rather, heard shots from their location which they believed (either then or later) or assumed came from Corry's Yard. Given the expert evidence discussed in Chapter 8 about the difficulty in locating shots from sound alone, it might be that some witnesses' evidence could be describing shooting from a different location either in Springhill or from the wider area.

9.405 Where possible, therefore, it is desirable to try to ascertain the timing from contemporaneous written records rather than later witness evidence. Nonetheless, it is worth reviewing the evidence, particularly in circumstances where the more detailed army radio logs from company level are not available. Again, the evidence suggests a spread of possible times.

9.406 Mr Macklin's deposition said that shooting broke out about 8.00 pm, with shots coming from Corry's Timber Yard. This is one of the earliest estimations. Johanna McCullough placed the time even earlier, not long after 7.00 pm as she was on her way to Springhill with Bernie Callaghan. I am afraid I do not feel I can place any reliance on this recollection given that, in an earlier account in 1999, Ms McCullough appears to have given a different description entirely of where she was when the shooting commenced (see paras 9.118 and 9.123 above); and that the other witness in whose company she was adamant she was at the time has contradicted the suggestion that she was there that night (see para 9.132 above). John O'Donoghue said that he heard shooting (4 or 5 really loud cracks in quick

succession) starting no later than 7.45 pm. He thought this was around 7.30 pm (less than an hour after Margaret Norney had left the house where they were babysitting). This is another early estimate; but, as discussed in Chapter 10, I have concerns about the honesty and reliability of Mr O'Donoghue's evidence.

9.407 Martin McShane, who was at the Springhill Community Centre, thought that shooting – which he heard but did not see – started around 8.30 pm. He said he then stayed at the community centre for a further 30 minutes or maybe more before going back to his parents' house. On the journey, however, he witnessed an ambulance trying to get to Martin Dudley. This feature leads me to wonder whether Mr McShane may have been making his journey home later than he thought, since Mr Thompson's evidence suggests that Mr Dudley would have been picked up after 10.20 pm; and other evidence suggest that he arrived at the hospital around 10.40 pm.

9.408 Mary Doyle's evidence, discussed in Chapter 10, suggested that the shooting which she encountered near Corpus Christi Church may have been between 8.35 to 9.10 pm; but this was based on her estimate of when she left her mother's house. She described a burst of automatic gunfire (and was sure of this) and then single shots following. Given that she did not appear to have been able to see up Westrock Drive as far as the circle area, it is difficult to know whether she was describing shooting which happened at the time Martin Dudley was shot or some other (potentially earlier) event. I note, for instance, that the police information sheets (see para 9.366 above) might suggest that there was automatic fire in the area at 20.45. It is possible that this was what Ms Doyle encountered, with the army returning fire (although, if that was so, one might have expected it to have been recorded in the army logs). It may be that it was the intense shooting within incident 1 which she encountered.

9.409 Teresa McShane described walking with her friend Theresa McGuinness from Ballymurphy to Springhill and could hear (but did not see) shooting in the distance. Someone said there had been shooting in Westrock or Springhill and she decided to go home. She was unable to recall the time but believed it was late afternoon or early evening. In her questioning she thought it was definitely not after 9.00 pm, although no real basis was provided for this new information. At some point on her way home someone said there were people lying on the street. She did not see anyone injured or shot but described shooting from Corry's as they made their way to the Petticrews' bungalow. I was somewhat perplexed by Ms McShane's evidence because she recounted having been told about shooting before and during her walk into Westrock but, when she arrived, did not see anyone lying on the ground or anything suspicious or unusual at the turning circle, despite accepting that she was able to see up to it. She also said that, until in the alleyway between Nos 84 and 86 Westrock Drive, she did not recall seeing anyone else as they travelled. She could remember no one else at the Petticrews' other than her friend Theresa, Brian Petticrew and his father. This is notwithstanding a range of evidence from other witnesses about many other people in attendance at various points. Unfortunately, I did not consider Ms McShane a particularly reliable historian, particularly in relation

to matters of detail. Her friend who was with her at all times, Theresa McGuinness, was unable to give a time for their journey, recalling only that it was not dark.

9.410 In her statement for the inquest, Mary Judge said there was shooting coming from the direction of the timber yard towards the bungalows at about 9.00 pm. Gerard Kelly also thought the first shooting he had heard occurred about 9.00 pm (although it could have been a little later). He was only estimating the time but said it was a bright summer's night.

9.411 I have already dealt with the evidence of Thomas Reid in relation to the timing of the commencement of the shooting (see para 9.399 above). I note also that Thomas Reid said he first heard four or five shots ring out, which resulted in him running to the top of the small hill or mound at Corrigan Park. It might well be that the four or five shots he heard were those mentioned by Soldier E when he described firing four aimed shots at the group of men in the vicinity of the cars. ("I fired four aimed shots at the group of armed men in the vicinity of the cars, and smashed the windscreen of the Triumph.") Soldier E said he was the only one firing at that stage. Soldier A also says that Soldier E was the first to fire and that this was four rounds. Shortly after this, Soldier E swapped position with Soldier A. Soldier A records firing off four rounds "into the northern end of Corrigan Park" as covering fire whilst Soldier E changed his position. In addition, Soldier E describes firing four aimed shots "into the bank of Corrigan Park" between Nos 46 and 54 Westrock Drive (even though he could not tell where civilian gunfire was coming from) immediately after this swap in position with Soldier A. It is possible that this was the fire which Thomas Reid apprehended as being directed towards him and his friends shortly after John Dougal had been shot which caused them to descend to the wall and escape to cover. Both Soldier A and Soldier E accept that they were firing towards that location at a point which was *not* directed at an identified gunman, by way of 'covering fire'. I consider this to be corroborative of Thomas Reid's account.

9.412 I have also addressed briefly, in Chapter 4 (see para 4.127(viii)) what I perceive to be a conflict of evidence between Soldier A and Soldier E about the *timing* of their changes of position within the wood shed, at a key point in the firing (and around the time when it seems to me most likely that Martin Dudley, Brian Petticrew and John Dougal were shot). Soldier E seems to suggest this was shortly after 20.30 (or at the latest 21.15); whereas Soldier A seems to place this occurrence within a window of 21.30 to around 21.45, and probably at the later end of that window. As discussed in this and the preceding section of this ruling, the latter of these time periods seems to fit more naturally with other evidence and my own assessment of when the key aspect of incident 1 is likely to have occurred.

9.413 Thomas Ramsey placed the commencement of the shooting sometime between 9.00 and 10.00 pm, although he was quite uncertain about timings. Mr Ramsey described coming down Springhill Avenue, guessing this was between 9.00 and 10.00 pm. This was because he had heard that people were injured (which he thought he heard around 20 minutes after he first heard shooting). This might be

taken to suggest that the shooting started between 8.40 and 9.40 pm, although Mr Ramsey's evidence did not appear to me to be particularly reliable on the timings.

9.414 I found Felix Cush's evidence in relation to the timing of the shooting to be interesting since he, unlike some others, was interrupted from an activity the time of which would have been known to him, potentially making his evidence more reliable on the issue. He was alerted when in the Springhill Community Centre and therefore considered that the shooting was after 9.00 pm, around 9.10 pm in his estimation. Richard Clarke's evidence (addressed below) also shared this feature. There was a potential discrepancy in the evidence about the community centre between Felix Cush and Martin McShane. Mr Cush said he opened the Springhill Community Centre, which was used as a social club and had bands and music; and that the normal time to open it was about 9.00 pm. Mr McShane said he also went to the community centre where he would help or do the door. He said he would usually get to the centre at about 7.30 pm, although he also said that he was on the committee. It may be, therefore, that he went particularly early.

9.415 Richard Clarke recalled making his way to a house shop and said that he would have been doing so because May's shop was closed, which closed at 9.00 pm. He too, therefore, placed the shooting at sometime after 9.00 pm. He was corroborated in this by Martin Petticrew, who was with him at the time, whose evidence was to the effect that they left "Ricky's" house around 9.00 pm.

9.416 The deposition of DS McBurney in the original inquest into the death of David McCafferty noted that there had been a gunbattle in the Westrock area "between 9 pm and 11 pm".

9.417 Brian Muckian provided a deposition for the purpose of the 1973 inquest in relation to the shooting of Fr Fitzpatrick. In it he indicated that the shooting started about 9.30 pm. Likewise, in Anthony Meenan's 1973 deposition in relation to the death of Margaret Gargan, he describes being at home watching television and says that, from about 9.30 pm, he had heard shooting in the area. However, when asked about this in his oral evidence he said that he had heard a few shots during the day and did not know if it was still going on; and that he had no idea of the time. He could not remember the start of the shooting; but accepted that in 1973 the events would have been more fresh in his memory.

9.418 Mr McMenemy's evidence to the 1973 inquest refers to the shooting starting out of the blue. He did not provide a time in his deposition but the coroner's note at the end of the deposition says, "About 10.10 pm". (As noted in the discussion in relation to this in Chapter 10, it is difficult to know whether this refers to the start of the shooting, the start of the incident or (perhaps more likely) the time when he considered Fr Fitzpatrick and/or Mr Butler had been shot.)

9.419 I consider it significant that these depositions from the time of the 1973 inquest suggest that the shooting commenced around 9.30 pm, or perhaps later, rather than earlier (with William Macklin's being an exception).

9.420 I am satisfied that there was some civilian shooting in the area on the evening, at least of a sporadic nature, such as that noted in the army logs. The Battalion Log notes three high velocity shots being fired from the direction of Corpus Christi Church at 21.00, for instance. I see no reason to doubt the veracity of this contemporaneous report, which is also reflected in the Brigade Log. As alluded to in Chapter 4, there was also sporadic shooting in the wider Springfield Road area during the early evening. This included the shootings of SM9 and Sgt Durkin around 20.00; six high velocity shots at Henry Taggart Hall from Divismore Park at 20.20; one shot at a mobile patrol in the Whiterock Road at the same time; three high velocity shots at B Company's OP at Springmartin at 20.47; four high velocity shots at Henry Taggart Hall from New Barnsley Park at 21.10; two high velocity shots from Moyard Flats at Springmartin Road at 21.23 with A Company OP returning fire and C Company thinking this had been from Springhill Avenue; shooting by and at a gunman in the Kelly's Bar area at 21.30, 21.34 and 21.43; one high velocity shot at the Special Care School from Springfield Avenue at 21.44; and a further high velocity shot in the Springmartin or Springfield Road area at 21.51. As noted above, the police information sheets for the period also record automatic fire heard in the Springfield area at 20.45.

9.421 It is possible that those who heard some shooting, but were not in the vicinity of the circle area at the time, may have heard the shooting from the Corpus Christi area at 21.00, or indeed other shots from the wider area at some of the times noted above. Ann Kiernan's clear evidence was that it is extremely difficult if not impossible to ascertain the location of shooting in an urban area from mere hearing. It is quite possible that witnesses heard some shots at around 9.00 pm, or earlier, and have now, with the benefit of hindsight or additional information, assumed that these were from Corry's Yard.

9.422 As to when an intense period of shooting occurred, or an intense exchange of fire (insofar as that is what it was), I think it unlikely that this occurred in the period before 9.00 pm, or even for quite some time after that, in the absence of any reference to that shooting in the army radio logs. I deal further with the content of those logs in due course, especially as they relate to what may have been reported back from Corry's Yard by C Company. However, it is important to note that it was not merely C Company which was reporting back on the sound of firing from the area. The content of the logs suggests that 1 Kings A Company was also in a position to hear and report on the sound of firing from the Springhill area. It is significant, in my view, that no record of any significant firing or exchange of fire is recorded until around 10.00 pm. For reasons I give below, I do not consider the army logs wholly determinative given the content of the reports around 22.24 and the absence of the logs at company network level.

9.423 Taking all of the above into consideration, I consider it likely that the intense firing described by civilian witnesses at or about the circle area, in which Martin Dudley was shot (and during or after which John Dougal and Brian Petticrew were shot) also occurred within the 9.00 to 10.00 pm window; and, within that, more likely between 9.30 and 10.00 pm.

9.424 I found it potentially highly significant that a large number of shots appear to have been heard by police at 9.49 pm (see para 9.366 above). I further note that this time is very close indeed to the time given in the IRA timetable published in *Republican News* very shortly after the incident and later reproduced in the Springhill Massacre booklet as to when shots were fired at the cars, namely 9.50 pm (see paras 5.08 and 5.17 in Chapter 5). It seems to me likely that the intense shooting at the circle area may have happened at or around this time.

Sudden commencement

9.425 An interesting feature of some of the eyewitness evidence relating to incident 1 is the young age at the relevant time of several of the witnesses concerned. For instance, Richard Clarke and Martin Petticrew were only 10 years old; Thomas Reid was 11 years old; Fra Lewsley and Patrick Butler were 13 years old; and Johanna McCullough was 14 years old. A number of others who were more directly involved in the events, such as Martin Mulligan (15), Gerard Heath (15), Joe McElkerney (15), Paddy McManus (16) and John Dougal (16) were not much older.

9.426 There are a number of things which might be drawn from this. The community narrative was that many of the older boys and men may have gone to Lenadoon. The youth of some of the witnesses is also relevant to an assessment of their reliability. However, for present purposes, I was struck by the fact that children were playing in the street or nearby around the time when the shooting described by civilians at the circle commenced. If there had been a planned assault on the wood yard, one might have thought that children would have been cleared away to safety in advance. There was some evidence from the military side that, when an attack was planned, the area would go quiet in advance.

9.427 A range of evidence indicated that, earlier in the day, or at or about a time shortly before the shooting commenced, there appeared to be little or no trouble in the area and that children were out playing as usual. For instance, Gerard Heath, describing his journey along Westrock Drive from Whiterock, noted that there were kids playing in the street. Mary Simpson (née Donnelly) also referred to children out playing in the street outside her house before she heard shooting. Brian Muckian's deposition referred to bringing the children in once the shooting commenced.

The cars

Was there one car or two?

9.428 The contents of the Springhill Massacre booklet support the suggestion that two cars were involved in the incidents related to some of the shootings. The IRA “timetable of events” set out in the Foreword to the booklet records that Sniper No 1 “fired at two cars” at or around 9.50 pm. As far as the timetable is concerned, this is the first incident in the sequence. This version of events then says that, “One car reversed and the other moved forward to the cover of a bungalow”. The map or plan provided within the booklet shows the position of two cars, with the location of Martin Dudley having been shot marked between the two. One of the cars in that plan is positioned just to the west of the circle between Nos 47 and 60 Westrock Drive and the other car is shown slightly further to the west between Nos 49 and 62 Westrock Drive, in the shelter of the brick houses as regards Corry’s Yard. Unfortunately, no indication is given in this plan, nor in the accompanying timetable, of the direction in which the cars were initially travelling. As explained in Chapter 5, this timetable was produced in the days shortly after the incident and published in *Republican News*. It appears to have been later endorsed by the community by its inclusion within the booklet.

9.429 There is a further sketch map, which appears to have been published in the *Republican News* article the week after the incident. It also shows two cars. This marks them ‘M’ and ‘N’ and appears to show *both* cars travelling east and stopping just to the west of the turning circle. (The article carries thanks to the Liam McParland Sinn Féin Cumann for permission to reproduce the sketch. This map does, however, appear to show a row of bungalows which is mis-aligned or misplaced, such that it is hard to know precisely where the cars are depicted as having stopped. For present purposes, however, it is clear that two cars are indicated on the map.)

9.430 As discussed in Chapter 4, at least one of the ciphered statements also suggests that two cars played a central role in the incidents, particularly in the immediate period before the sustained gun battle. (Soldier A said he saw a yellow car travelling east. However, whilst Soldier E said that he too saw a yellow car travelling east, he also referred to a blue Austin 1100 travelling west.) Perhaps more importantly, the Battalion Log also refers to two cars stopping in Westrock Drive (see para 4.151), although there is a discrepancy in the timing of that entry and the timing given by the ciphered soldiers. Unfortunately, no further details in relation to the cars are provided in that log entry. In any event, the MoD case in this inquest has been that two cars were involved, as per Soldier E’s statement and the radio log.

9.431 In addition to the two maps and commentaries produced by or within the community, as well as the army materials, a number of eyewitnesses saw a car or cars at or about the relevant locus before or during the events in question. As with

many factual issues in this inquest, there was far from unanimity about this. Some of the relevant evidence is mentioned below.

9.432 A number of witnesses saw two cars at or about the relevant location:

- (a) Brian Muckian's deposition to the 1973 inquest refers to cars. Once he heard shooting, he brought his children in and then went up to Westrock Drive, where people were standing at the Butlers' house. He described two cars parked between 47 and 60 Westrock Drive and said he understood that there were people shot near the cars.
- (b) Martin Mulligan's original deposition also refers to two cars, which he says he hid between. His further approved statement maintains the position that there were two cars. He cannot remember any details of the cars but was clear there were two, as he said he hid between them. He suggested they were both facing the same direction, towards the bungalows (i.e. travelling east).
- (c) In his evidence to the inquest, Patrick Butler described two cars and their movements in some detail. He remembered two cars, travelling in different directions, both dark, which stopped for the drivers to talk to each other. The one which was driving east left from the Dudleys' house and was being driven by Martin Dudley. The one which was facing west later drove on and stopped.
- (d) Richard Clarke saw two cars, a light one and a blue one, although he thought they were both travelling in the same direction (travelling west).
- (e) In Gerard Heath's detailed signed statement given to KRW Law in 2013, he said that he noticed two cars stopped beside each other, with the occupants talking to each other, just to the west of the turning circle. In due course, the car closer to the Tutons' house drove on into Springhill. (A natural reading of this statement would suggest that the cars were travelling in opposite directions, as Patrick Butler had described).

9.433 A number of other witnesses only saw, remembered, or mentioned, one car:

- (a) Anthony Meenan saw a car at the circle area, pointing away from Westrock Parade (i.e. facing west) with a body hanging out of the driver's door and someone taking cover at the rear passenger's side door. He was looking at the back of the car. He did not know what make or model it was and could not remember the colour. He only saw one car at the circle. The priest in the car Mr Meenan stopped (whom he did not know) said that he was going up to the other car. When Mr Meenan saw the car he said he was frightened by it but could not remember shooting going on. He did not see anyone else around and said the area was deserted. It is hard to accurately time this

sighting but it was after Margaret Gargan had been shot and, after some further time, had been moved into the Meenans' house or garden. (It occurred to me that Anthony Meenan may have been mistaken about the direction in which this car was travelling if it was indeed the car at which Martin Dudley was shot. There was some suggestion that this car swerved across to the south side of Westrock Drive (i.e. the wrong side of the road) which, if correct, might have given Mr Meenan the impression, if looking at it from a distance, that it had been travelling west on the correct side of the road.)

- (b) Brian Petticrew said he saw a grey Morris Minor (beside Martin Dudley and Paddy McManus) facing Springhill, i.e. travelling west. He only remembered one car. (I had some concerns that he may not have wished to give details about the car facing east. In any event, this evidence did not sit easily with other civilian evidence describing the car in which Martin Dudley was travelling, or at which he was injured, facing east.)
- (c) Thomas Reid only saw one car, which he described as dark-coloured and which he thought may have been a Vauxhall.
- (d) Martin Petticrew only saw one car, from up the street, with someone hanging out of it.
- (e) Thomas Ramsey saw a car facing west, which was on the wrong side of the road, between the last bungalow and first brick house.
- (f) Martin McShane saw one car (on the north side of Westrock Drive) with Martin Dudley at it.
- (g) Teresa McShane was somewhat hesitant in her evidence on the point but thought she had seen a car towards the Heralds' house. She believed that she had only seen one car.
- (h) Anne Maguire saw a car outside but opposite Tutons', facing east. She thought it was black.
- (i) Marie Gavaghan saw a car, which she described in various terms, at the grey houses, on the Corpus Christi side of road, going west. She thought Paddy McManus and Martin Dudley were at this car.
- (j) Gerard Heath, in his recent evidence, said that he saw only one car, which was grey and facing east. However, in his 2013 statement to KRW he had recalled two cars (see above).

9.434 On balance, I find that there were two cars at or about the turning circle around the time when this incident commenced. This is consistent not only with the

army radio log (and the ciphered statement of Soldier E given the following day) but also the version of events purportedly published on behalf of the IRA shortly afterwards. Moreover, there are a variety of witnesses who recalled seeing two cars involved at the start of the incident. These included depositions taken very shortly after the events and, notably in the more recent evidence, that of Patrick Butler. He gave first-hand evidence from a short distance away of seeing the two cars stop and engage with each other. I found his evidence in this regard credible. He gave vivid detail of the movement of the car which he saw leaving the house opposite his, with people in it whom he knew. I also believed that he remembered the interaction between the two cars. That evidence – that there was some interaction involving the two cars or their drivers greeting or acknowledging each other in some way – was corroborated by Gerard Heath’s 2013 statement. I consider that feature is likely to have been a memorable occurrence for those who saw it.

9.435 In short, on the balance of probabilities, I find that there were two cars at the turning circle area, shortly before the intense shooting in that area commenced, with one car travelling in each direction. The confusion on the part of witnesses as to which direction a car or cars were travelling in could be caused by a variety of factors. The suggestion that one car reversed at one point could be one cause of this. However, I think it more likely that a car seeking to escape gunfire would have driven on towards cover, rather than reversing.

9.436 As to why some other witnesses gave evidence of there only being one car in that area, there are a number of potential reasons for this. Most obviously, if indeed one of the cars drove on after the shooting commenced so that its occupants could be provided with cover, it is quite possible that some witnesses did not see that car after it had done so. They may not have noticed it or have been in a position to see it; or, if it appeared to be parked near some of the brick houses in Springhill, they may not have appreciated that it had earlier been involved in the incident. (As an example, from Thomas Reid’s viewpoint, it is unlikely that he would have seen a car which had driven on and stopped further to the west along Westrock Drive, in the cover of the brick houses. From Anthony Meenan’s viewpoint at the junction with Westrock Parade, he may also not have seen such a car in the distance, beyond the car which was stopped at or about the circle area.) This car does not appear to have been stranded in the open in the way in which the other car, which stopped at the bungalows, was stranded. I cannot discount the possibility that it may have been driven away and removed from the scene at some point before other witnesses arrived.

9.437 In addition, if a witness saw memorable events at one car only, it may also be that that is the only memory of a car being present which they retain. I also bear in mind the risk that some witnesses may have edited out of their memory their sight of a further car, either intentionally or subconsciously, because of some reticence on their part, or that of others, to provide evidence about the involvement of that other car or its occupants. I fear that that was the case in relation to the more recent evidence of Gerard Heath on this issue. Generally speaking, I consider it more likely

in the circumstances of this case that a witness may be mistaken in remembering only one car than in remembering that there were two.

Was Martin Dudley in one of the cars?

9.438 There is differing evidence as to whether Martin Dudley was inside or outside the relevant car when, or just before, he was shot. The clearest evidence that Martin Dudley was in the car came from Patrick Butler. Patrick Butler said that Martin Dudley was driving towards the bungalows in a dark-coloured car. He recalled hearing shooting and then seeing Martin Dudley “hanging out of this car”. In addition, Richard Clarke described a man, who he now knows to be Martin Dudley, *opening* the driver’s door of a blue car and, as he stood up, being shot, falling back against the car and sliding down. This seemed to me to be strong evidence that the man shot – Martin Dudley – had been driving the car. These two eyewitness accounts point persuasively to Martin Dudley having been in the relevant car.

9.439 It is potentially significant that in his interview with my investigator, resulting in the draft statement later signed by Mr Dudley’s wife, Mr Dudley indicated that his father owned a car (although he could not remember the make or colour of the car they had at the time); and that Mr Dudley helped out at his father’s work, John Walsh Bros, in the vehicle workshops fixing vehicles. It seems likely therefore that, on a Sunday evening, Mr Dudley may have had access to a car at his house, from where Mr Butler saw him leave; the general evidence being that few people in the area had cars at that time. At age 19, he was old enough to drive.

9.440 A number of other witnesses describe an injured man, known or thought to be Martin Dudley, who was partly in the car. Thomas Reid said that he saw someone, who he later heard was Martin Dudley, “slumped out” and “half in, half out” of a dark-coloured car. For Mr Reid to have seen this from his viewpoint, Martin Dudley would have to have been on the driver’s side of the car, if it was travelling east (as I believe to be the case). Martin Petticrew described a man, who he later heard was Martin Dudley, “hanging out of a car door like backwards” with blood coming from his head. (He was not able to provide any information in relation to the colour or make of the car). These accounts suggest that Mr Dudley was either getting into or out of the car when shot. In view of the circumstances, I consider it much more likely that he was getting out of a car which was under fire, rather than trying to get into it.

9.441 In his oral evidence, Gerard Heath placed Martin Dudley outside the car, but shot when his head popped up over a door which he opened from the outside. This was inconsistent with the account he gave in 2013 which (in my view) fairly clearly placed Martin Dudley both *in* the car and in the driver’s seat of a grey car. He saw Mr Dudley getting hit by a bullet when he was getting out of the driver’s door. He then saw him *underneath* the car, from where Mr Heath was lying, which would again place Mr Dudley on the driver’s side. The more recent description of Mr Dudley’s head simply ‘popping up’ over the car door when it was opened appeared

to me to be strained. As discussed above, I consider Mr Heath's 2013 account to be more accurate in relation to the cars.

9.442 Martin Dudley himself has been inconsistent. In the Springhill Massacre pamphlet, his account said that he *was* in a car (with no description given), heading towards the bungalows when the shooting started. He tried to get out of the car and blacked out. I see no reason why he would have made this up in this early account. However, in the 1999 KRW account he said that he was in the street talking. I consider it more likely that he was later trying to distance himself, for some reason, from having been in the relevant car.

9.443 Considering all of the evidence I have heard on this issue, it seems to me more likely than not that Martin Dudley *was* in the car travelling east on Westrock Drive; and, indeed, that he was driving it. I also note that Mary Judge, John Dougal's sister, said she believed that Martin Dudley had been in the car. She did not explain where she gained this impression; and I have reached my own conclusion on the matter without reference to this expression of her view. It is appropriate to note it nonetheless.

Were others in the car?

9.444 Continuing with the car described by Patrick Butler as travelling east, with Martin Dudley driving, the next questions are whether there were others in the car along with him and what the reason was (if any) for it being fired upon.

9.445 I think it likely that Martin Mulligan was also in this car. Again, this was the evidence of Patrick Butler, whose evidence I found credible on the point, in circumstances where he knew the surname of Mr Mulligan at the time and recognised him (but did not know his first name) because of Mr Butler's acquaintance with his younger brother. Patrick Butler was adamant that Martin Mulligan had been in the car with Dudley. When an account previously given by Mr Mulligan, which was inconsistent with that, was put to Mr Butler by Mr McGrory (on behalf of Dudley), Mr Butler would not agree that it was possible that it was not Mr Mulligan whom he had seen.

9.446 Mr Butler described three men in this car. Gerard Heath's 2013 KRW Law statement also suggested that there were three men in the car travelling east who got out of it. I was not impressed by his oral evidence that he should have corrected this element of his 2013 statement but simply overlooked it. When Anthony Meenan looked up the street from the junction of Westrock Drive and Westrock Parade, he recalled seeing not only a man hanging out of the driver's side but also a rear passenger door which was open, with someone he believed using that door for cover.

9.447 I recognise that Martin Mulligan denied being in the car in both his 1973 deposition and more recent draft statement. However, I consider this evidence

likely to be wrong and, indeed, dishonest. I recognise that I have not had the opportunity to see Mr Mulligan give oral evidence and assess his credibility; and also that he would have given sworn evidence before the coroner in 1973. However, I have concerns about the credibility of his evidence assessed alongside other evidence available to me; and also arising from what I consider to be his likely failure to sign and return his statement to the inquest initially in order to avoid committing again to this narrative (see para 9.345 above).

9.448 I have a range of concerns about the truthfulness and reliability of Martin Mulligan's statement. He describes John Dougal running towards him and being forcefully knocked or thrown back when he was shot. On the basis of other evidence available to the inquest, including in particular the expert pathology evidence, I do not consider this can be correct. John Dougal was shot in the back (whilst leaning over) and not shot in the chest in such a way as would have been likely to have thrown him backwards as Martin Mulligan suggests.

9.449 More importantly on the present sub-topic, I also doubt the truthfulness of Martin Mulligan's account that he was *not* in the car with Martin Dudley. I say this for the following reasons:

- (i) Patrick Butler placed Mr Mulligan in the car and I thought his account was credible for reasons already discussed.
- (ii) I found Mr Mulligan's account of leaving the Springhill Community Centre strange. He could not remember who he was with when walking home, which is strange given the enormity of the events which they then encountered. He also gave no reason for not attending the dance at the centre to which he had originally gone. It appears he left the centre *before* the shooting started, not when proceedings there were interrupted by it. Felix Cush described opening the centre up in preparation for an event after 9.00 pm. No explanation has been provided by Mr Mulligan as to why he simply decided to change his plans.
- (iii) Interestingly, Mr Dudley's draft statement (see para 9.332 above) suggests that he too was going to Springhill Community Centre that night; and that he too could not remember who he was going with.
- (iv) Perhaps most importantly in terms of Mr Mulligan's own account, I do not consider his explanation for being between the cars on Westrock Drive makes sense. His approved statement said that he was just at "the end of the Springhill houses" when the shooting started. He would have been in a position to take cover there, behind a building of brick construction, as the evidence suggests several others did. He said he knew he needed to get some cover from the shots. However, rather than staying at the brick houses, he instead (on his account) moved forward into a *more* exposed position,

between two cars, in the middle of the road. I just cannot understand how that would have made sense.

- (v) Mr Mulligan describes sheltering between the two cars when other evidence suggests (and I have found) that one of the cars moved forward to the cover of the brick houses, so that there would not have been two cars in the road between which Mr Mulligan could have hidden as he has described. I believe that is the reason why some witnesses only saw one car at the circle area. I do not consider it would have been possible to hide between the two cars as Mr Mulligan maintains. Moreover, the evidence is that those persons at the cars were, or had been, under fire and were pinned down. It makes no sense for Mr Mulligan to have run to them to hide, as he has suggested.

9.450 The much more natural explanation for Mr Mulligan being pinned down in the location he suggests is if he was in the car, along with Mr Dudley, at the time it came under fire.

9.451 I think it likely that there was one other person in this car at the time when it stopped. Who that may have been is a more complicated question; but there is a reasonably strong case that this may have been Paddy McManus.

9.452 Gerard Heath denied seeing Martin Mulligan or Patrick McManus. However, I am satisfied that Mr Mulligan was at the cars (and he has never himself disputed this, albeit he denied being a passenger). Patrick McManus was placed at the scene by Brian Petticrew and Felix Cush. Marie Gavaghan also placed him there, although she had previously indicated that this was Mr McMenemy. In particular, Brian Petticrew describes Paddy McManus cradling Martin Dudley at the car very quickly indeed after Martin Dudley was shot; and alerting others to the fact that Martin Dudley had been shot (see para 9.189 above), with no one else at all there. This was consistent with his account in the Springhill Massacre booklet which described Paddy McManus kneeling beside Martin Dudley.

9.453 As to other potential passengers in the car, it is difficult to say. Gerard Heath and Joe McElkerney were also pinned down at the circle area for a time; and could have run to the other side of the road if exiting from the passenger side. However, Patrick Butler only saw three people in the car. So too did Gerard Heath (although, if he had been an occupant and wished to conceal this, his evidence on the number of persons in the car would likely be unreliable). Gerard McMenemy was also seen by a number of persons at the scene. However, he lived a very short distance away in 64 Westrock Drive and his presence there is more likely explicable on that basis. Patrick Butler did not see him getting into the car; and would have been likely also to have recognised him as another close neighbour who lived across the road.

9.454 It is very difficult to form any view as to the occupants of the other car. The evidence suggests that it moved to cover behind 49 and/or 71 Westrock Drive. On the army case, the occupants of this car dispersed, some into the area of the flats. I

think it unlikely that the occupants of this car – even assuming they were intent on attacking soldiers in Corry’s Yard – would have made their way back to the turning circle into a more exposed position where they were then pinned down, although they might have done so for a number of reasons, including if they had initially tried to go to Martin Dudley’s aid. Rather, they are more likely to have disappeared into more built-up areas with additional cover; although it is possible that some of them may have deployed to the area around the electricity box seeking cover there. (Soldier A referred to some of them adopting covering positions in nearby shrubs and bushes.) Mr Heath’s shift in evidence to seek to erase his previous account of the car travelling west did make me wonder whether he may have been one of the occupants of that car (along with his friend, Joe McElkerney). I found it strange in Gerard Heath’s evidence that he was pinned down for such a long time whereas at least two others mentioned in his evidence, Fr McCaul and Denis Devenney, appeared to speak to him and then go on into Springhill unimpeded. One explanation for this might be if the soldiers seeking to restrict his escape from the scene considered him to be suspicious or represent a threat because he had been in one of the cars.

Were the occupants of the cars up to no good?

9.455 A key issue in trying to understand what was happening at the time is what the occupants of either or both cars were doing and whether, as Soldier E’s statement suggests (corroborated to some degree by Soldier A), the occupants of the cars were fully armed and intent on mounting an attack on Corry’s Yard. I have not been persuaded that this was the case for the reasons set out below. However, I remain deeply suspicious of what the occupants of at least one of the cars were doing, and in fact both.

9.456 With the exception of Martin Dudley’s early account in the Springhill Massacre booklet, from which he has since sought to resile, no witness has placed themselves inside one or other of the cars which were stopped at or about the circle area during the period of shooting which forms the centrepiece of incident 1 in this inquest. Patrick Butler gave evidence of two people in the first car (travelling east), namely Martin Dudley and Mr Mulligan, each of whom now denies having been in the car. There was at least one other person in that car on Mr Butler’s evidence. That person has not been identified by any witness; nor have the occupants of the other car which Mr Butler said he saw (likely to be at least two people, on his evidence). I find that highly suspicious. The occupants of those cars were clearly at the heart of the scene of what was occurring – if not the incident itself – at the time. It is both surprising and unhelpful that none of the occupants have come forward to identify themselves; and that no one, save for Mr Butler, purports to recall who was in either of the cars. Those facts alone are sufficient to put one on serious enquiry as to whether the occupants of the cars were intent on, had been involved in, or were in the course of, some nefarious activity.

9.457 Brian Petticrew's evidence was that the car at which Martin Dudley lay injured was just parked, with its doors closed (para 9.190). This may simply have been a description of how the car presented at that time; but, if it was suggested that the car had been parked there for quite some time, I do not believe this. In addition, I found Mr Heath's change in his account to be suspicious, from the detailed, signed and witnessed account given to KRW Law in 2013 (with the assistance of Mr Mehigan, whom I believe to have been a barrister) to his present evidence. He no longer wished to place Mr Dudley in the car; and wished to retract his earlier account about there having been two cars. Indeed, Mr Heath also changed his evidence to say he had not seen *anyone* in the car where Mr Dudley was injured, having previously said in 2013 that he thought three men got out of this car. Mr Heath said that he knew Mr Mulligan and Patrick McManus but did not see either of them at the car with Mr Dudley, despite being very close (see para 9.40 above). I also found this suspicious. I also found it very strange that, in his 1973 deposition, Mr Macklin does not mention the cars. When describing the three lads across the street whom he warned but who were then shot and fell, it appears that he has gone out of his way to avoid reference to the car at which Martin Dudley was shot. Ms Gavaghan's change in evidence in relation to who was assisting Mr Dudley at the car seemed to me to be very suspicious. Throughout the civilian evidence – with some exceptions (notably Patrick Butler, Brian Petticrew who confirmed what had already been published on his behalf in the Springhill Massacre booklet, and the evidence of Felix Cush and Anne Maguire) – there was a discernible reticence to identify people trapped in the vicinity of the car travelling east. Notwithstanding this, I must obviously consider the evidence about what the occupants of the car were doing.

9.458 As noted in Chapter 4, Soldier A saw only one car (disappearing along Westrock Drive to the east) and did not purport to see anyone emerging from a car, much less armed gunmen getting out of a car. His statement did indicate that, after he heard the noise of two blasts on a vehicle horn, he saw three or four gunmen run from behind 49 Westrock Drive (which was the Rooneys' house end of the block of the Springhill Flats closest to the Westrock bungalows on the northern side of Westrock Drive). The car he described was a yellow Triumph Ford. This differs from the description given by most civilian witnesses about the car travelling east, or the car stopped in the circle area, which (the weight of evidence suggests) was dark or blue/grey. I would have thought that a yellow car may have been more memorable. It is of course possible that there was yet another car which did in fact drive off entirely.

9.459 In contrast to Soldier A, Soldier E describes the yellow Triumph Herald coming from the west and *parking* between 60 and 47 Westrock Drive on the left-hand side of the road; and a light-blue Austin 1100 coming from the east and parking at the same location on the right-hand side of the road. Each vehicle's horn sounded and the cars emptied of their occupants who scattered with "each person was carrying a weapon". He adds, however, that "I saw at least two rifles distinctly". (It is unclear if the rifles both came from the same car, and if so which, or one from each car.) He does not describe any of the other weapons he purports to

have seen. Although he then mentions two further armed men (running from 50 Westrock Drive across towards No 56), one with an SMG and one with a pistol), he does not describe any other weapons in relation to those emerging from, or in the vicinity of, the cars.

9.460 There are some obvious discrepancies between these two accounts, most notably Soldier A seeing only one car, rather than two; and Soldier E saying that the yellow car stopped in a location 100 metres from his location and being visible to him, whilst Soldier A said this car disappeared entirely from his view. Even allowing for restricted fields of vision from the firing positions in the woodyard, I find it very hard to understand how Soldier A could no longer see the yellow car if it stopped as Soldier E described. Ms Kiernan's evidence was that the general location in and around the area where the cars were said to have stopped would have presented them in a direct line of fire (and therefore sight) from various elevated positions within Corry's Yard (see para 8.134 in Chapter 8). Soldier A purported to be able to see gunmen run from behind 49 Westrock Drive which was not far from where Soldier E said the yellow car came to stop, between Nos 47 and 60. No other ciphered soldier mentions either car. As between the two soldiers who do refer to either of these cars, there is inconsistency between their accounts.

9.461 I consider it significant that neither report in the army radio logs of the arrival of the car or cars mentioned that the occupants were armed. The entry in the Battalion Log of 22.29 mentions eight men 'debussing' and dispersing. There is no reference to them being armed; nor are they described as gunmen (nor the appropriate abbreviation 'gmen' used through the radio logs). The entry in the Brigade Log of 22.32 mentions one car and eight men. It records that orders were shouted at them (which may at least suggest they were viewed as suspicious) but makes no mention of any arms or the men being gunmen. This appears to me to be highly unusual since, if eight gunmen arrived in cars, this would have been a significant event which one would have expected to be detailed. A request for details of the cars might also then have been made, answered and recorded in the logs. If, as Soldier E claimed in his statement, he saw all of the men armed, and distinctly identified two rifles, one would have expected this to have been recorded.

9.462 Nonetheless, given Mr Dudley's attempt to retreat from his original account that he was travelling in the car, and Mr Mulligan's apparent unwillingness to also place himself in the car, I am deeply suspicious of what the occupants of the car which stopped near the circle area may have been doing or intending to do.

9.463 As discussed in Chapter 6, there was intelligence material pre-dating the incident, which I considered deployable, to suggest that Mr Dudley was actively involved in the PIRA and had access to arms; and that Mr Mulligan was an OC of the Fianna (going on to have further, later involvement with the IRA). There was also an intelligence report which stated that Martin Dudley was "using an M1 Carbine" when shot in New Barnsley on 9 July 1972 and that "this weapon was removed by a priest who was on the scene" (see para 6.106). Whilst this intelligence

is clearly relevant to the matters I am considering in this inquest, it is not direct evidence of the matter stated and is merely suggestive of something having occurred. I take into account that the location provided is wrong; but it is clearly referring to what happened when Martin Dudley was shot on the relevant date. There is no evidence suggesting that a priest removed a gun from Martin Dudley, although it is conceivable that someone else may have done so. As to other supporting evidence for the suggestion that Martin Dudley was armed, the MoD relies upon the statements of the ciphered soldiers that persons who were armed (or whom soldiers believed to be armed) were shot; and that Soldier E purported to see armed persons emerging from the relevant car, including two with rifles. (The MoD also relied upon the fact that in 1973 Martin Dudley, along with Brian Petticrew who admitted membership of the Fianna, placed a memorial in honour of John Dougal, who was also a Fianna member; and that, many years later, Martin Dudley unveiled a plaque commemorating the Fianna.) Furthermore, there was intelligence material from September 1972 suggesting that, from May 1972, Paddy McManus, who may well have been the third person in the car, was a member of the Fianna and would act as part of a look-out team.

9.464 Taking the above matters together – along with the other concerning or suspicious evidence in relation to the whereabouts of those three persons – there is a strong possibility that the occupants of the car observed by Patrick Butler were engaged in unlawful activity. In that event, it is quite possible that there may have been at least one firearm in the vehicle.

9.465 Tommy Ramsey gave evidence in relation to the car in his written statement (see para 9.210 above). This arose from a note in the notes of his HET interview, appearing to relate to the night in question, in the following terms: “Lenadoon ceasefire, IRA went up to engage the army. Army set up a hotspot and waited for them.” The notes then continue that Brian Petticrew ran out and was shot. Mr Ramsey said he knew the army and police suggested that “the guys in the car were left behind to look after Springhill”. He went on to say that he did not believe they fired any shots at Corry’s and also that no weapons were found in the car. Interestingly, however, he did not disavow the implicit suggestion that those in the car were involved in IRA activity. He addressed the lack of evidence of guns being “found” and offered a reason why it would not have made sense to mount an attack on Corry’s Yard from a car at that location. In the round, his evidence may be thought to support the suggestion potentially raised in his HET interview that they were going to Lenadoon to assist.

9.466 One further point made by Mr Ramsey was valid in my view. It was suggested by at least some other civilian evidence and had occurred to me in any event from my own consideration of the evidence. It seems to me that it would not make sense for local persons to mount an attack on Corry’s Yard from a car or cars in the way in which the MoD case seems to suggest (taking together the content of the ciphered statements and the case made in relation to local persons said to be involved in the armed attack). By way of example, why would Martin Dudley get

into a car to drive a matter of a hundred yards up the street in order to then mount an armed attack from the location where the car stopped or was shot at? Why too would horns be sounded as a means of signifying or commencing an attack? If a number of men were intent on mounting such an attack, it seems to me inherently implausible that they would do so by getting into cars and stopping them in this location, as described in Soldier E's statement.

9.467 That hypothesis also does not appear to fit with other evidence I considered – which was relied upon by the MoD – about the mode of IRA operations in the area. This frequently involved firing from multiple locations; concealed locations; positions of cover; or from raised locations (such as upper windows) given the height of the army observation posts in Corry's Yard. Put shortly, I do not think that stopping two cars in the middle of the road and sounding their horns would have been a sensible way to mount or commence an attack. The cars would have been conspicuous; in a vulnerable location; and numerous persons 'de-bussing' from the cars at once would have provided a closely-bunched target group for army fire. Whatever else one might say about IRA activity in this area at the time, it seems to have been known for its cunning and covert nature, using the common advantages of guerrilla warfare rather than full frontal assaults (unless, of course, this was required, such as the instance in May where the newly-constructed sangar was removed).

9.468 I think the more likely explanation for the two cars initially stopping at the location at or near the turning circle is that given by Patrick Butler and also by Gerard Heath in his 2013 account, namely that the drivers or occupants of the two vehicles recognised each other and wished to speak. It is more than possible that the attention of one or other of the drivers was gained by one or both cars sounding a short blast on its horn. This seems to me a much more likely explanation for the cars stopping there than a coordinated plan to disembark the vehicles at that location in order to mount an assault on Corry's Yard.

9.469 That is not to say that I think the occupants of the cars, or at least the car travelling east with Mr Dudley driving, were simply out for an innocent Sunday evening drive. I think it more likely than not, for the reasons discussed above, that those in that car were involved on IRA business, probably en route to Lenadoon in order to assist with operations there. It is entirely possible that they met other similarly-motivated persons, perhaps also with arms in the vehicle, who were returning or otherwise coming into the Springhill or Ballymurphy area. In such circumstances, it would have been natural for them to confer before going further.

9.470 I think it likely that Soldier E opened fire on the car in which Martin Dudley was travelling before any shots were fired by anyone in the car, even assuming that there was at least one firearm in it. Indeed, Soldier E's statement describes him firing at the group of men at the car *before any other shot was fired*, smashing the windscreen of the car (although this was the Triumph he said he fired at). I consider it likely that Soldier E shot Martin Dudley either when he was still in the car (out of

which he then fell as he tried to exit it); or just as Martin Dudley was exiting the car after he perceived it to have been fired upon.

9.471 I think it unlikely that all of the occupants of the car travelling east were armed. Certainly, I think it unlikely that they were all armed with long arms, given the height of Soldier E's evidence about the specific weapons which he purported to have seen. If anything, I consider it more likely that there may have been one long arm in the vehicle for use by Mr Dudley with two Fianna members assisting him. Given the evidence available as to Mr Dudley's presentation, I consider it unlikely that, even if armed, he had an opportunity to aim or fire a weapon.

9.472 The question immediately arises as to what caused Soldier E to fire on the car or its occupants if, as I consider more likely than not to be the case, they did not fire at Corry's Yard first. I think it likely that, as discussed elsewhere, the soldiers in Corry's Yard were on a very high state of alert given (a) the breakdown in the IRA ceasefire and related IRA recall to arms; (b) the previous sustained attacks on Corry's Yard and military personnel stationed there; (c) the shooting of two 1 Kings' colleagues within the previous few hours; and (d) whatever report had resulted in the QRF being called to the location.

9.473 In that context, it may be that the mere fact that two cars stopped at that location was viewed as suspicious or threatening. It may be that a firearm was observed in one or other car. It may be that one of the occupants of one or both of the cars was recognised as an identified terrorist suspect in light of intelligence which was available; or that one of the cars itself was recognised as a car which had previously been used by the IRA or was suspected to have been so used. It may be that a shot was fired at Corry's Wood Yard from some other location, or heard from some other location, causing Soldier E to apprehend an imminent attack (although I note again that no shots are recorded in the army radio logs at or about this time). It may have been some combination of the above; or none. It is impossible to say with any degree of assurance. One possible explanation is that in a briefing at some time before the events of 9 July 1972, either on that date or on some earlier occasion that month, the soldiers had been briefed on a car which Soldier E later saw or thought that he saw. As noted in para 6.142(f), a gist of material redacted on PII grounds was provided to PIPs indicating that, in early July 1972 and in advance of the incident, a significant amount of rifles and ammunition was transported by the IRA in the New Barnsley area and it was believed that a *blue Austin 1100* was used to facilitate this. It is therefore striking that Soldier E's statement records him as having seen "a light blue Austen 1100". The sighting of a car known or thought to be used by terrorists, particularly if it stopped unexpectedly, may have been sufficient to prompt the opening of fire. Alternatively, of course, it might be suggested that Soldier E could conveniently have inserted reference to a car known or suspected to be used by the IRA on an ex post facto basis when giving his account to the RMP.

9.474 As to the possibility that some other shot around the same time triggered a disproportionate response, there is some support for the possibility of other shots

having been fired before the car was fired upon. Richard Clarke's evidence was that he heard a number of shots *before* the cars arrived. He thought these came from Corry's Yard but said he could hear them echo. He believed this to be an indication that they had been fired from one of the sheds. This could easily have been a misinterpretation, however, particularly given the expert evidence on this issue (see para 8.27 in Chapter 8). Others also described a number of shots before (it seems) the car was fired upon. Gerard Heath described a number of shots (causing him to quicken his pace) before the men at the car were fired upon; and indicated that there had been loads of shots going off before a bit of a lull and then Martin Dudley was shot at the car.

Where was John Dougal shot?

9.475 Turning back to focus on the location and actions of John Dougal at the time when he was shot, I am satisfied that John Dougal was shot in the area of the front garden of either 60 or 58 Westrock Drive (just to the southwest of the circle area on the road, and in the garden area facing Nos 52 and 50, but to the west of the small pathway between the two rows of bungalows). I have no significant doubt about this. All but one of the eyewitnesses who gave evidence about where he was shot or where his body lay placed him in this small cul-de-sac and in this area. (The evidence was also that there was not a fence between the gardens so that it was difficult to delineate the properties or gardens.) I address some of the eyewitness evidence below.

9.476 There was also a range of others who saw John Dougal immediately before or after he was shot. Again, the majority of this evidence places him in the cul-de-sac area, just to the north of the Petticrews' bungalow at No 56, in the area of the front gardens of No 58 or 60, just to the southwest of the circle area on Westrock Drive. So, Thomas Reid described John Dougal being shot at this location; and Fra Lewsley described seeing John Dougal having fallen in the garden of 60 Westrock Drive, which was opposite his own home at No 52. Robert Russell and Gerard Kelly both gave evidence about John Dougal's body being recovered from the garden of No 58. I also consider that his body is likely to have been that observed by Soldier F in or about the garden of 60 Westrock Drive (see para 9.383 above). There was no evidence of his being moved to any significant degree after falling where he shot, save for when his body was later recovered (through No 58) by Bobby McCrudden and Brian Petticrew.

What was John Dougal doing before he was shot and who shot him?

9.477 There are a range of different accounts, several conflicting, as to what John Dougal was doing both immediately before he was shot and in the hour or hours before that. The accounts most immediately relevant in this regard are those of Brian and John Petticrew, of the Dougal family, and then of course those who purported to see the shooting itself.

9.478 The account from Mrs Dougal, John's mother, in the Springhill Massacre booklet says that, on the day of the shooting, John's father did not allow him to go out but that he got out through the window up the stairs and that that was the last that his mother saw of him. It said her husband went out "but he couldn't find him so he had to go on to work". The account goes on to record the news of John's death being broken. This account appears to contradict the version given by John's father at the original inquest. On Mrs Dougal's account, John had climbed out the window and gone missing. Mr Dougal tried to find him but could not and then had to leave for work without John having been located. On Mr Dougal's account, John appears to have been safe at home when he left for work at 9.00 pm.

9.479 It seems to me that Mrs Dougal's account is more likely to be correct. It accords with the evidence provided in this inquest by John Dougal's sister, Mary. She remembered John being at their home with his friend Paddy Teer, an argument occurring, and then John being grounded and sent to his room by his father when his parents returned. (In Mrs Dougal's account she says that *she* sent John to his room after the argument.) Mary Dougal described how she had been told to check on John in his room around 9.00 pm and found the bedroom empty with the window open. It is possible that this occurred before her father left for work (although her evidence did not give that impression) and that he looked for his son before going on to work. However, the tenor of Mrs Dougal's account in the booklet and the more recent evidence of his sister is that John had gone missing and the family were unaware of his whereabouts or what he was doing at the relevant time.

9.480 I also note, however, that, in the Anne Cadwallader article from the *Ireland on Sunday*, reproduced in the 1999 version of the Springhill Massacre booklet, Mrs Dougal appears to have given yet a further version. In it, she is quoted as saying that that Sunday afternoon John Dougal "was going out with some mates, to his cousin's house" and that, on the way, "he heard that Martin Butler [sic] had been hit and saw him lying in the street". This account says that he was with his friend Brian Petticrew.

9.481 I was struck by Mary Dougal's evidence about her mother's reaction when it was discovered that John had climbed out of the window. Her mother kept saying, "God protect my son"; and Ms Dougal obviously tried to reassure her. On one view this could have been a parent's natural concern when their child was out in a neighbourhood which was a regular 'hot spot' during the Troubles and/or where shooting had been heard. However, it seemed to me from the evidence that there was more urgency or apprehension in Mrs Dougal's reaction than that, especially when it seems that John's younger sister was then permitted to go out to see if she could see John. Mrs Dougal's account in the Springhill Massacre booklet refers to her being "constantly worried" about him, especially with the increased shooting in the district. This is expressed before she recounts the story of him having young lads in his room pledging an oath to the Irish Republic. In that context she added that he had her "heart broken", as she was constantly worried about him. She then recounted the exchange with Jim Bryson where she sought reassurance as to what

John was involved in. She added that, when John was murdered, Jim Bryson came round to her and put his arms around her and cried, commenting in respect of Bryson, "Poor fellow, he was dead just a few months after John".

9.482 It seems to me that Mrs Dougal was worried about her son's whereabouts and activities on that day because she feared he may have been caught up in trouble because of his involvement with the Fianna. It is unclear whether that was why, or at least part of the reason why, his father and/or mother did not allow him out that evening; but that seems to me to be a highly plausible scenario in light of his mother's constant worry and the news of the ceasefire breaking and trouble in Lenadoon. It is possible that John Dougal's escape through the upstairs window so that his parents were unaware he had left demonstrates that he was determined to either see or somehow involve himself in whatever trouble there was in the area, rather than merely a normal act of teenage rebellion. In any event, I found the contrast between Mr and Mrs Dougal's accounts concerning, potentially indicating that Mr Dougal did not wish to reveal at the inquest that his son had ignored their instruction and snuck out; and that Mr Dougal had provided a less than honest account in his deposition.

9.483 There is also a conflict of evidence as to what John Dougal was doing shortly before he was shot. As noted above, his father's deposition suggested that he was at home at 9.00 pm. John Petticrew's deposition is entirely inconsistent with that, since he suggests that he was playing football with John Dougal at St Peter's School until they left about 8.30 pm, with John Dougal not returning home before he was shot. On John Petticrew's account, John Dougal was 'dandering' up the street towards Westrock Drive when he was shot, between around 9.00 pm and 9.15 pm, having left Kate Campbell's house, which they had visited on their way back from football. His account does not expressly say this but gives the impression that John Dougal may have been facing *towards* Corry's when he was shot. He saw him fall back. He described John Dougal then lying at the front door of the next house to his (i.e. No 58 Westrock Drive).

9.484 In turn, there is a conflict between this account and that given by John Petticrew's brother Brian. On John Petticrew's account, the incident commenced and John Dougal was shot without him having been in the Petticrews' house. In contrast, on Brian Petticrew's account, he was watching television in his home with his brother John *and* John Dougal, John Dougal having arrived first (at 8.30 or 8.45 pm) and his brother arriving later. They then all sat together and chatted, for about 15 minutes. On this account, John Petticrew and John Dougal had not been together beforehand. Brian Petticrew said that the two Johns had gone to Clarkes' shop for cigarettes. On John Petticrew's account, they had not gone to the shop but had called at Kate Campbell's before he went into his own home (without John Dougal) to pick up a jacket. These accounts from the respective Petticrew brothers are irreconcilable.

9.485 There are other discrepancies between these two accounts. For instance, on John Petticrew's account, it appears that John Dougal was shot on his own whilst going *towards* the cars at the turning circle from the direction of the Petticrews' house. No mention is made of Brian Petticrew being out of his house or anywhere near John Dougal at the time he was shot. On Brian Petticrew's account, John Dougal was shot in his company (indeed, holding on to him) whilst going *away* from the cars and towards the Petticrews' house. Brian Petticrew candidly said that his brother's deposition was wrong.

9.486 As noted above, Mr Dougal Sr's deposition contradicts both John and Brian Petticrew's accounts if John Dougal remained at home until 9.00 pm. Mrs Dougal's account, about John sneaking out, might be consistent with either one of the Petticrews' accounts; but appears to me to be more likely to be consistent with Brian Petticrew's account than John's. On the basis of the Dougal family's evidence and that of Brian Petticrew, I consider it more likely than not that John Petticrew's account in his deposition was wrong (and, indeed, likely to have been dishonest) in relation to he and John Dougal having spent the late afternoon together playing football. I have significant concerns about the truthfulness of John Petticrew's deposition in light also of the fact that it does not mention his own brother Brian who, on Brian's own account and that of several other witnesses, was also shot at or about the same time and location as John Dougal.

9.487 It is interesting that both Brian Petticrew and John Petticrew seek to explain – although in different terms – a short excursion on the part of the two Johns before John Dougal was shot. John Petticrew records a short visit to Kate Campbell's and Brian Petticrew records a short visit to Clarkes' shop. These locations were both in nearby bungalows and also in close proximity to the ex-servicemen's club. Not only was the ex-servicemen's club used as an IRA communications centre (see the discussion in Chapter 10); but, on 10 July 1972, when it is common case that a major gun battle was ongoing between the IRA and the army, there are radio log entries suggesting that shots were coming from the Catholic Ex-Serviceman's Association (CESA) hut which was being built (see serial entries 36, 99, 104, 114 and 116 at 12.30, 15.31, 15.44, 16.10 and 16.16 respectively, by way of example only). There was also intelligence material to suggest that, in September 1972, a home near this location was used as an arms dump.

9.488 There are also a variety of different accounts in relation to where John Dougal was, or from where he was coming, at the time when he was shot:

- (a) John Petticrew's deposition is dealt with above. He suggests that John Dougal was walking up towards Westrock Drive, along the front garden of No 58, alone, at the time of being shot. (As noted above, the deposition is not entirely clear on this but the natural reading of it seems to me to suggest that John Dougal was facing towards Corry's Yard when shot.)

- (b) Brian Petticrew's evidence is discussed in detail above. He suggests that John Dougal was shot at or about the front door of No 58 Westrock Drive but whilst in his company, *after* he himself had been shot, running *back* towards the Petticrews' house after Brian Petticrew had heard shooting and gone up to see what was happening at the circle.
- (c) Martin Mulligan's deposition and evidence at the original inquest suggests that John Dougal was shot facing him (i.e. looking towards the cars) and Corry's Yard when he was shot. His deposition suggests that John Dougal was with John Petticrew shortly before this. Given that he said he shouted at John "to go back", it seems that his evidence was that John Dougal was coming towards the cars at the time, along the path leading to the Petticrews' bungalow.
- (d) Thomas Reid described both Petticrew brothers (John and Brian) being together with John Dougal at the time he was shot and running towards the Petticrews' house (from the direction of the circle area and the Tutons' house).
- (e) Gerard Heath's position is similar to that of Thomas Reid in that he appears to have seen John Dougal and Brian Petticrew coming towards him at the circle area and, having warned them to get back, understood them to have been shot as they were 'retreating' from that area.
- (f) Richard Clarke described seeing John Dougal coming from the direction of the Springhill flats (from the alleyway between Nos 84 and 86). He then described seeing John Dougal being shot and falling in the *back* garden of the Tutons' bungalow at No 60 (i.e. between No 60 and No 62 Westrock Drive).
- (g) In contrast, Johanna McCullough described seeing John Dougal coming from the opposite direction - from the side door of the Maguires' bungalow at 48 Westrock Drive - and being shot as he crossed over towards the Petticrews' bungalow (between Nos 48 and 56). She did not recall Brian Petticrew being with John Dougal (nor John Petticrew being with him, whom she recalled as being in the Petticrews' bungalow).
- (h) The history provided in the autopsy report notes simply that John Dougal was walking towards the home of a friend in Westrock Drive, without indicating whose home that was or who (if anyone) he was with.
- (i) Although not dealing with John Dougal directly, Brian O'Kelly's account to the St Aidan's Inquiry placed Brian Petticrew right up at the circle area and, indeed, in the middle of it.

9.489 On the balance of probabilities, I find that John Dougal was not an occupant of one of the cars at the scene. No witness at all has suggested that he was, including Patrick Butler who saw men getting into the car in the Springhill area opposite his

house. Had he seen John Dougal getting into the car, I believe he would have recognised him and indicated this. I also note that in his Eyewitness Two account in the initial Springhill Massacre booklet, Gerard Heath described seeing “two blokes” heading towards him, whom he warned to get back. They then turned to run back the way they had come. The MoD relies upon this account, as with the other anonymised eyewitness accounts in the booklet, as being a candid and (relatively) early expression of the witness’s evidence. This is also consistent with what Gerard Heath said in his oral evidence and, on this point, all of his accounts appear to have been consistent. I believe Mr Heath did likely see John Dougal and Brian Petticrew coming towards him at the turning circle and that he (and/or others) warned them back. This would explain why Thomas Reid saw them running from the circle area back towards the Petticrews’ bungalow in the direction of Corrigan Park. (I cannot wholly exclude the possibility that one or other, or both, of Brian Petticrew and John Dougal were in one or other of the cars; but I think this less likely than likely.) Mr Heath’s evidence, and Mr Reid’s evidence, in relation to this are corroborative of each other and, indeed, are also corroborated by the pathology evidence, to which I turn below.

9.490 I am satisfied that, when shot, John Dougal was facing away from Corry’s Timber Yard. This is consistent with some of the eyewitness evidence, such as that of Thomas Reid. More importantly, however, I find it to be clearly established by the pathology evidence, when considered in the context of other available evidence.

9.491 Thomas Reid appeared to have a vivid recollection of John Dougal being shot, describing what seemed “like an explosion” in his chest. He was clear that John Dougal was running towards the Petticrews’ house. He also recalled seeing Brian Petticrew being shot at or around the same time, describing his body as “jumping”. It is correct that Brian Petticrew was shot more than once; and it is possible that Mr Reid saw Mr Petticrew being hit more than once given the apparent close proximity in the shootings. I considered Mr Reid’s evidence about seeing Mr Dougal being shot first-hand to be credible, notwithstanding some misgivings mentioned at para 9.67 above.

9.492 In Martin Mulligan’s evidence to the original inquest, it seems clear that he described John Dougal facing him (and therefore facing Corry’s Yard) when he was shot. On this basis, the MoD advanced a theory that it was possible that he was shot by a civilian gunman to the south of his position shooting northwards up *towards* Corry’s Yard. I do not consider this plausible. Even assuming that there were civilian gunmen shooting up towards Corry’s Yard, the ballistics and pathology evidence in relation to this issue make it highly unlikely that the injuries sustained could have been sustained in that way. The shooter would have had to have been extremely close to John Dougal (which is contra-indicated by the pathology evidence which does not suggest a close-range injury) and at a highly unusual angle which would be very difficult to achieve with a high velocity weapon.

9.493 With the possible exception of John Petticrew's deposition – the truthfulness of which I doubt in any event – and the evidence of Richard Clarke, Martin Mulligan's evidence was the only significant evidence suggesting that Mr Dougal was facing towards Corry's Yard. I have concerns about the credibility and reliability of Mr Mulligan's evidence which are discussed above. Johanna McCullough recalled seeing John Dougal shot as he ran east to west from the side door of 48 Westrock Drive. It is conceivable that John Dougal did run from that location shortly before he was shot; and, indeed, that he was bending forward for cover whilst doing so. However, in light of other evidence, I do not consider it likely that he was shot whilst running from No 48 to No 56. I also consider it highly unlikely that he could or would have been shot by someone behind him in an elevated position at that location who was shooting west. Richard Clarke thought that John Dougal was shot towards the back garden of Tutons' bungalow after having run from a position near the alleyway in the Springhill flats. Again, it is not impossible that he could have run from that location shortly before being shot (perhaps through the gap between the Petticrews' bungalow and No 58), although I consider this to be against the weight of the evidence. I think it more likely that Richard Clarke was mistaken as to the location where John Dougal was shot and fell. (I have already commented on the discrepancy between Richard Clarke's evidence and that of his friend, Martin Petticrew. If Richard Clarke viewed the events from where Martin Petticrew said they first heard shooting, in or around the Tates' bungalow at No 33, it is possible that what Richard Clarke saw happened to the east of the row of bungalows at Nos 54-60 rather than to the west of them as he recalled.)

9.494 The expert pathology and ballistics evidence in relation to John Dougal is summarised in paras 8.34 to 8.40 of Chapter 8 of this ruling. He was struck by a single bullet on the right side of the back of the lower chest, which passed forwards and upwards through his chest, exiting just below the inner end of the right collar bone. Prof Crane and Ms Kiernan (like the original pathologist, Dr Press) considered this to be caused by a high velocity round. Their evidence was that it was a direct hit and not a ricochet; with nothing indicating a close-range shot. Ms Kiernan went further to suggest that, if the bullet had been discharged within 5-6m of Mr Dougal, it would have been in a state of yaw and would not have created the neat, circular entrance wound which was found here.

9.495 Both experts were agreed that John Dougal was facing away from the shooter when shot. The upwards trajectory through the body of the bullet track was such that, in Prof Crane's view, John Dougal could not have been standing upright when shot because of the sharp and steep degree of inclination. He considered that John Dougal must have been bending forwards, kneeling or crouching with his back to the shooter, with this more likely if the shooter was in an elevated position with regard to John Dougal. Ms Kiernan also considered that it was more plausible that John Dougal was leaning forward, bent at the waist, with his lower back presented to the shooter and the shot being fired from *above* and behind him.

9.496 Taking into consideration the evidence of Prof Crane and Ms Kiernan, I consider it more likely than not that Mr Dougal was *not* standing upright at the time when he was shot. Whilst it is theoretically possible that the bullet trajectory through the body could have been achieved with Mr Dougal standing erect, this seems to me extremely implausible, particularly in light of Ms Kiernan's evidence on the issue when questioned by Ms Doherty. Prof Crane's view was that he could not have been standing upright when shot and must have been bending forwards, kneeling or crouching with his back to the shooter. In light of the eyewitness evidence available, I do not consider that Mr Dougal was kneeling or crouching at the time he was shot. Rather, he was on the move. Moreover, no ciphered soldier purports to have shot a man kneeling or crouching at or about any location which may have been John Dougal's.

9.497 I am satisfied that, at the time of being shot, Mr Dougal was, as suggested in Ann Kiernan's report, leaning forward, bent at the waist, with his lower back presented to the shooter, with the shot being fired from above and behind him. In my view, the trigonometry of the shot described by Ms Kiernan (see para 8.40 in Chapter 8) renders it highly unlikely that he was shot at close range giving rise to the bullet track through the body. The topography at the relevant location did not appear to allow for that; and, as noted above, the pathology evidence points away from the shot having been discharged at close range to him. I also did not consider it likely that Mr Dougal was shot by a gunman at Corrigan Park (in a much less elevated position) shooting *upwards* towards Corry's Wood Yard from some distance away. By far the most obvious explanation of the shooting in light of the expert evidence was that John Dougal was shot from Corry's Wood Yard whilst facing away from it in a bent-over position.

9.498 In short, I am satisfied that John Dougal was shot whilst walking or, much more likely, running away from the direction of Corry's Yard, hunched over, likely taking cover. He was likely to be taking cover because there had, by that time, been firing from Corry's Yard (at or towards those in or at the cars, including Martin Dudley) and he considered himself to be at risk of also being shot or shot at. This is even more probable if, as I consider to be likely, Brian Petticrew was shot before he was.

9.499 I am therefore satisfied that John Dougal was shot by an individual positioned within Corry's Yard. All of the civilian eyewitnesses who commented on the issue believed or understood that to be the case from their own observations. That is, of course, not wholly determinative. It is, however, a very relevant consideration. None of those witnesses describe gunfire coming from any other source at the time of John Dougal being shot. However, even assuming that there were civilian gunmen operating in the area at the time, the pathology evidence as to the angle of the bullet trajectory makes it very unlikely, in my view, that the shooter was firing from the ground up. The much more plausible explanation is that a soldier in an elevated position fired down upon John Dougal. Thomas Reid's evidence was that when John Dougal was shot he saw flashes coming out of the hole

which he described as being towards the apex where there was metal or asbestos. This suggested to me that the shot came from the highest OP in the wood shed (also referred to as OP Echo), although I ultimately think it unlikely that the shooter fired from that position, for reasons discussed below. Nonetheless, the ciphered statements suggest that another soldier was shooting from that position at or about the same time; and it is quite possible that that is what Thomas Reid saw.

9.500 The next question is which ciphered soldier shot John Dougal. That may turn, in part, upon whether either Soldier A or Soldier E purported to describe the shooting of a person who was, in fact, John Dougal. I consider that issue further below. Of all of the ciphered soldiers, assuming it was one of those soldiers who fired the shot which killed John Dougal (which I consider more likely than not), Soldier A and Soldier E are the most likely candidates; and, as between them, Soldier A is in my view the much more likely.

9.501 Soldier E purported to fire at armed men in the vicinity of the cars but at a time which does not match my own view (on the basis of the evidence) as to when John Dougal was shot. Soldier E may, of course, have been mistaken about the time. However, he also does not describe any 'hit' around the time of the firing or at that location which may be thought to match up with the shooting of John Dougal. Soldier A does describe firing at and hitting two gunmen at about 21.30 to 21.40, which is a much closer time to what I consider is suggested by the evidence. He also describes one man being dragged away (which could have been Brian Petticrew) and another left lying (which could have been John Dougal). However, this is at a different location (near 41 Westrock Drive). It is also at a time when Soldier E, rather than Soldier A, appears to have been in the upper OP (OP Echo) from where Thomas Reid's evidence may suggest that the fatal shot was fired. However, it would clearly be unwise to place any significant reliance upon Thomas Reid's assessment of precisely where in the shed the shot came from.

Was John Dougal armed when (or just before being) shot?

9.502 I have concluded on the balance of probabilities at para 9.498 above that John Dougal was shot whilst running away from the direction of Corry's Yard, hunched over, likely taking cover because he considered himself to be at risk of being shot or shot at. Why would he have considered himself to be at that risk? There are, as usual, essentially two competing theories. On the civilian case, advanced by John Dougal's next of kin, soldiers in Corry's Wood Yard were shooting indiscriminately for little or no reason; and anyone in the area, including those who were wholly innocent, were liable to be shot. On the MoD case, John Dougal was part of an armed assault on the military position in the wood yard and was justifiably shot in response.

9.503 It will be apparent from the discussion above that I have found it difficult to establish from the conflicting accounts what John Dougal was doing in the hour or hours before he was shot. The fact of those conflicting accounts is, of course, a

potential indicator in itself that some of the accounts were untruthful, which might suggest that John Dougal was engaged in activity which he or others would not have wished to be disclosed. I have already indicated my reading of Mrs Dougal's position as being one of concern about his possible involvement in trouble because of his involvement with the Fianna, which had led her to seek reassurance from Jim Bryson.

9.504 I am satisfied, on the basis of the evidence and information discussed in Chapter 6, that John Dougal was a member of, and involved in, at least Na Fianna Éireann, the junior wing of the Provisional IRA. There are a number of reasons why I have reached this conclusion. The most compelling of these is that it was accepted in submissions on behalf of his next of kin that he was a member of Na Fianna Éireann at the time of his death. In addition, Brian Petticrew admitted in his evidence that he was a member of the Fianna in July 1972 and gave evidence that John Dougal was in the same sluagh. James Dougal said that it was only after John's death that he discovered that John was in the Fianna. It may well be that John was secretive about some of his activities; or simply that his younger brother was kept in the dark. However, I think it highly likely that his parents would have known of this involvement given the content of Mrs Dougal's contribution to the Springhill Massacre booklet.

9.505 The conclusion that John Dougal was involved in the IRA in some form, whether its junior wing or the adult organisation, is significantly fortified by various events and acknowledgements after John Dougal's death. A variety of death notices from the time purporting to be from the IRA identify him as a "volunteer". He has also been recognised and acknowledged as a "volunteer" or "oglach" in public monuments and plaques paying tribute to him in that capacity. This was also reflected in mass cards which his own grandfather had produced; not for publicity or propagandist purposes but, one can only suppose, for private family remembrance.

9.506 An issue arises as to whether John Dougal had progressed from the Fianna into the Provisional IRA proper or was a member of both organisations. In my view, there is not insignificant support for this. Unlike the position in relation to David McCafferty (discussed in Chapters 6 and 10), the death notices paying tribute to John Dougal and extending sympathies to his family purport to come largely from the IRA itself (including the Officers of the 2nd Battalion and the Officers of B Company, as well as from the female wing of the organisation, Cumann na mBan) rather than from the Fianna. He is often described as a volunteer, rather than a fian. Although he is listed in the Republican Roll of Honour as a fian, and similarly identified as such in the *Belfast Graves* publication, he is acknowledged as a volunteer or "oglach" on a number of public monuments or plaques in West Belfast. I recognise that these are not entirely terms of art; and that members of the Fianna who did not hold a particular office in the organisation could also be referred to as a volunteer, although it seems that this was more generally reserved for members of the IRA with members of the Fianna described as fian. However, the plaque accompanying the large painted mural referred to in Chapter 6 refers to "Oglach John Dougal" and he

is included, further, on a roll of honour for B Company, 2nd Battalion, Belfast Brigade of the IRA (which also acknowledged him as a volunteer in the death notices from that company, as did its battalion). Shortly after the events of 9 July 1972, the publication *Republican News* further identified John Dougal as a volunteer in the 2nd Battalion. It is also perhaps relevant to recall that John Dougal had by this time left school and was in employment, having previously worked for a building company and, later, a bottling company.

9.507 The large painted mural showing John Dougal holding a rifle and pictured in the area near Corry's Yard appears to me to be significant in terms of the understanding or perception of John Dougal's nature and role in the community, or at least parts of it. The submissions on the part of his next of kin accepted that this factor was suggestive of IRA membership, as opposed to the other matters mentioned above, which they contended were not.

9.508 As mentioned above, the account in the Springhill Massacre booklet attributed to John Dougal's mother indicated that he had her "heart broken" and that she was "just constantly worried about him"; so much so that she spoke to Jim Bryson for reassurance about John's role. This was corroborated in the evidence of James Dougal. It is unlikely that this concern would have arisen, or to the same degree, if John Dougal was simply involved with the Fianna. Approaching a notorious and apparently senior member of the IRA to discuss her son's role is unlikely to have been appropriate unless he had moved, or was moving, into the adult wing of the organisation. The publication *Children of the Troubles* also describes John, seemingly as a result of an interview with his brother Jim, as having joined the Fianna "and then the IRA".

9.509 The next of kin is right to assert that there is no intelligence support for the suggestion that John Dougal had joined the IRA; and the army description of him in logs the day after he was shot attributed Fianna membership to him only (see para 6.101). On balance, I consider it likely that John Dougal had not progressed into the ranks of the adult IRA; but that, even though he had not, he was of such an age and position within the junior organization, preparing to transition into the full organization, as to really make little difference. If, as some evidence and the community narrative suggests, most of the local IRA volunteers had gone to Lenadoon, there is no reason why a senior Fianna member may not have been armed in the circumstances, particularly if in the company of an IRA member such as John Petticrew.

9.510 Mere membership of the Fianna, or indeed the IRA, may be relevant to what John Dougal was doing on the night on which he was shot; but it is obviously not determinative. As explained in Ruling No 1, I consider it (as a matter of common sense) to go to propensity and opportunity. However, it needs to be considered along with all of the other evidence.

9.511 There is no scientific evidence which particularly assists with this issue. As discussed in Chapter 8, swabs were taken from John Dougal's hands. The witness statement of John Martin, Forensic Scientist, of 10 January 1973 indicates that no significant level of lead was detected. Dr Griffiths' summary for the HET was that no lead residues were detected. In fact, there was one small speck in the centre of the swab in respect of the right palm. The forensic evidence in relation to this, however, is that nothing can be drawn from it in light of the limitations of the testing and methodology at the time. Oddly, there is nothing within the papers indicating that John Dougal's clothes were submitted to DIFS for examination, albeit the clothes of the other deceased were. (The coat which had been removed from John Dougal's body and was washed by a neighbour would not, of course, have been available to the police for this purpose; but there were other clothes which would have been.) I am left, therefore, with the documentary and oral evidence.

9.512 The military evidence has been discussed in some detail already. However, the two key passages for present purposes are likely to be the descriptions of a gunman by Soldier A and Soldier E respectively who was wearing blue jeans. It is possible that Soldier E's reference to the smaller man - described as Man D at para 9.381 above - who emerged from near 50 Westrock Drive wearing blue jeans could be a reference to John Dougal. His mother's account indicated that he was wearing blue jeans at the time. When examined postmortem he was also described as wearing blue jeans. The description of the smaller man estimates his height as about 5'6" which accords with John Dougal's height, established at post mortem as 67 inches (just under 5'7"). The location is also where Brian Petticrew described John Dougal as coming from (with his brother John Petticrew) very shortly before John Dougal was shot (see para 9.192). This man was said to be carrying a pistol in his hands.

9.513 Soldier A also described two men who were together and armed, one of whom was wearing light blue jeans (Man A at para 9.381). He shot and killed one of these men and injured the other. The man in jeans was 18-19 years old and had a brown jacket, with long, dark hair. Soldier A said he saw this man with a short-barreled weapon. A 16½-year-old could certainly be mistaken as an 18-year-old from a distance, perhaps particularly if they were with an older friend. There is also evidence that John Dougal was wearing a jacket (although other witnesses described this as green). He also had dark hair. It is further noteworthy that Soldier A describes the man he believed he killed as being "left lying on his back". The evidence of Robert Russell, who went out to retrieve John Dougal's body with Bobby McCrudden, was also that John Dougal was lying on his back (see para 10.167).

9.514 John Dougal's next of kin submit that this description should not be considered, even possibly, to refer to John Dougal for two primary reasons. First, on the basis that John Dougal had *short*, dark hair; and, second, on the basis that the description of the location is incorrect. (This is, of course, in addition to their reliance on the lack of civilian eyewitness evidence suggesting John Dougal was armed and, indeed, some civilian eyewitness evidence to the contrary.) As to the

first of these, I do not consider this determinative. Consideration of the postmortem photographs do show that John Dougal does not have *long* hair. It is not cut particularly short but would likely be described as short hair, rather than long hair. However, again, this is not something which can necessarily be observed or described with precision, recalling a potentially short sighting in the heat of a dramatic encounter, particularly if the soldier was trying to keep a number of other persons in view at the relevant time with a limited range of vision.

9.515 It is potentially significant that Soldier A described firing three aimed shots at the two men, injuring one who was then dragged away into concealment. This could describe the shooting of Brian Petticrew. He was hit with two shots (once to the front, on the right anterior upper arm, and once to the back); and John Dougal with one. That is consistent with the firing of three shots. Brian Petticrew was injured and (on his account in the Springhill Massacre booklet) assisted back into his house by his father. It may also be significant that Brian Petticrew was initially shot in the front and in the arm; which suggests that he was facing Corry's Yard when initially shot and, potentially, shot in a manner designed to be disabling in the first instance. In his evidence, he described this occurring as he emerged from the northeast corner of 60 Westrock Drive (the Tutons' bungalow) to look up the street. That could be understood to have been Mr Petticrew leaving the cover of the bungalow, as referenced in Soldier A's statement. This would also account for John Dougal (and Brian Petticrew) then turning tail and seeking to escape back to safety. (I should add that I consider it likely that Brian Petticrew is correct that he was shot in the front of his right arm first and then secondly shot in the back as he turned to run away. That seems to me more likely than his being shot in the back first and then turning round to be shot in his arm from the front.)

9.516 There is potentially greater force in the point that Brian Petticrew and John Dougal were in the region of 60 Westrock Drive when they were shot, rather than No 41. The former is to the south of Westrock Drive and the latter to the north. That is a significant distinction. Mr Vannan addressed this issue in his evidence and acknowledged that point. He did, however, note, which is again obvious, that the locations are on a similar alignment (south-western) from Position H on the RMP map looking into the Westrock area; and are each in the vicinity of the westernmost bungalows on Westrock Drive. I would add to that the two bungalows, No 60 and No 41 respectively, are each the northernmost bungalow in the row. If the reference was simply to the wrong row of bungalows (one closer to Corry's Yard) the description (save for the question of weapons) matches quite closely a good deal of the civilian evidence I have accepted in relation to the circumstances of the shooting.

9.517 Considering the similarities highlighted above, I believe it to be quite possible – and, on balance, more likely than not – that Soldier A *was* describing John Dougal and another person (most likely Brian Petticrew) when describing shooting two gunmen, one of whom he killed and one of whom he injured, at around 21.30 to 21.40. The timescale is also broadly accurate. Assuming that to be so, that is evidence of John Dougal being armed at the relevant time or immediately

beforehand. As I have addressed elsewhere, I consider that the ciphered soldiers – whether being truthful or not – would have sought to provide some explanation making reference to the deaths or injuries for which they knew they were responsible.

9.518 There are clearly a number of potential misdescriptions of locations in the ciphered statements; and I believe it likely that errors may have been made by soldiers describing locations without access to large, clear and/or detailed maps. I also consider it would be unrealistic for Soldier A to have been in a position to see the gable end of 41 Westrock Drive (from where a gunman is likely to have emerged from cover) from his position in the woodyard. At this point, Soldier A had not climbed to OP Echo; and the difference in ground level between the area where the bungalows were, together with the height of Corry's wall, makes it likely, in my view, that Soldier A could not have seen gunmen at the area identified in his statement, so close to the base of the wall over which he must have been looking. In her report Ms Kiernan refers to 41 Westrock Drive as being "*immediately* in front of the perimeter wall of Corry's Yard" (emphasis added). That is also apparent from my own consideration of the photographic evidence available.

9.519 Mr Vannan touches on some issues relevant to this in his supplementary report of 15 April 2024. There was evidence to support that the ground level just to the south of Corry's wall was lower than the ground level just to its north within the Corry's premises themselves. Height data from 2006 surveys indicated that the ground surface to the north of the wall (in the vicinity of the former No 33 Westrock Drive, the Tates' bungalow facing No 41) was 1.63m higher than the ground surface to the south of the wall, in a terracing type of arrangement. Less technically, there was evidence from Martin Petticrew and Richard Clarke that they journeyed along the bottom of Corry's wall at or about this location (to the north of Nos 41 and 33) for the very reason that it provided cover from shooting from the sheds. In summary, I consider it unlikely that Soldier A could have seen and/or shot gunmen emerging from cover at No 41 unless and until they had travelled quite some distance to the extent that they were in the region of another address. In short, I consider there to be a reasonable basis for concluding that the address given in this portion of Soldier A's statement must be wrong. If that is so, it is more than likely a misdescription of No 60 Westrock Drive, where Brian Petticrew and John Dougal were shot. Mr Vannan did remark on some similarity in Soldier A's description and some other evidence in relation to the shooting of Brian Petticrew and John Dougal. I accept the submission on behalf of the next of kin that those issues are outside Mr Vannan's expertise and are a matter for me. I have considered them wholly independently of his view.

9.520 It is also right that Soldier A does not describe shooting a man who was bent over and running away. I am not surprised that no such description is included in such an RMP statement; and nor might he consider it relevant if his orders were (as Soldier E described) that they were to kill any gunmen positively identified. However, his statement is also not inconsistent with this positioning. The body

position of the men he shot is not addressed. It is also notable that the RMP plan marking which correlates with Soldier A's description of shooting the two men (Position 3 on the RMP plan) marks this as having occurred at the *boundary* of No 41 and No 43. This is consistent with civilian evidence that (assuming the statement refers to the wrong row) John Dougal was shot at the boundary of the two gardens of Nos 60 and 58; and consistent with running southwards having emerged from cover at a northern corner of the bungalow.

9.521 I have taken into account the absence of scientific evidence to support that John Dougal was in possession of a weapon. As discussed in Chapter 8, this is essentially a neutral factor. Moreover, Soldier A's statement does not suggest that either of the two gunmen referred to discharged their weapons at that time. Taking all of these factors into consideration, I still consider it more likely than not that Soldier A was describing the shooting of John Dougal and Brian Petticrew at this point in his statement. No other portion of the statements could be describing this event, assuming it is addressed. I should add, however, that my overall consideration of the issue of whether or not John Dougal was armed would not have been materially affected if I considered, on balance, that there was only a strong possibility (but not a likelihood on the balance of probabilities) that Soldier A was purporting to describe the shooting of John Dougal in that portion of his statement.

9.522 I also consider it possible that the gunman in the jeans whom Soldier E described at a location close to the side of the Maguires' bungalow could also have been John Dougal (i.e. that Man A and Man D sighted by the two soldiers were the same person). Although there was some discrepancy between each soldier's description of the second man, this could be accounted for if there was one other armed man with John Dougal at some point, such as John Petticrew or someone else.

9.523 It is obviously an important consideration that none of the eyewitnesses to the shooting who gave oral evidence in the inquest and who saw John Dougal immediately before or after his being shot have suggested that he was armed or presenting in a way which posed a risk. There is a possibility, of course, that some of those witnesses may be mistaken or dishonest. It goes without saying that those involved in an armed attack of that nature are unlikely to wish to admit it or implicate themselves or their comrades. On this basis, the MoD invites me to treat with extreme caution the evidence of a number of witnesses (or persons who previously gave evidence, statements or accounts) such as Brian Petticrew and John Petticrew.

9.524 Again, Mr Reid's evidence about this was potentially helpful. He clearly described John Dougal facing him when he was shot. His evidence was that none of the three (neither Petticrew brother nor John Dougal) was carrying a gun at this point. It is possible that he could have been mistaken about this. He was some distance away. He estimated between 150-200 metres, although Mr Vannan estimated the distance to be shorter, some 57-58 metres. However, other evidence suggests that John Dougal was wearing a jacket. A short-barreled weapon may not

have been noticeable or could have been concealed within the jacket. Alternatively, it could have been dropped at a time before John Dougal turned and ran towards Mr Reid; or before Mr Reid saw him from the top of the hill at Corrigan Park. (There are some evidential references to the potential dropping or loss of a gun at some point that evening.) I recognise that Thomas Reid was prepared to give details about civilian gunfire which he saw the following day and to provide names (in writing) of persons he believed to be in the IRA at the time. It was not, in fact, put to Mr Reid by MoD counsel that John Dougal was armed at the time when he was shot. However, that evidence was elicited from him in the course of his testimony. I also generally found him to be credible. Nonetheless, I consider it possible that he was an honest but mistaken witness on this point, on a basis discussed above or discussed further in Chapter 12. It is important to recall that he was only 11 at the time when he witnessed these incidents. The possibility of such a young witness being influenced by the community's received understanding of the incident over the coming years must be borne in mind. I also take into account that his evidence was that John Dougal was shot before Brian Petticrew, which I consider to be incorrect (and which contradicted an earlier account he gave) and that his evidence was also that Brian Petticrew was shot six or seven times, which is also plainly incorrect. His evidence was not reliable therefore on some matters of detail.

9.525 Richard Clarke also purported to see John Dougal, although in a different location - in the back garden of Tutons' bungalow, having run across from the Springhill flats - which of itself gives rise to some concern about the reliability of his account. He too indicated that he had not seen any gunmen that evening, which would have included his sighting of John Dougal. However, I have some disquiet about the reliability of Richard Clarke's evidence. As noted above, there was a strange conflict between the evidence of Richard Clarke and Martin Petticrew, both aged only 10 at the time, who had been playing together when the shooting commenced and remained in each other's company later that evening. Richard Clarke gave vivid evidence of seeing Martin Dudley shot and also then seeing Brian Petticrew and John Dougal being shot at the back garden of the Tutons' bungalow. Martin Petticrew did not purport to see any of those shootings or indeed anyone actually being shot. Rather, he only described seeing the body of a person (later thought to be Martin Dudley) hanging out of a car injured. Martin Petticrew nonetheless gave evidence that he was with Richard Clarke throughout. When this was put to him, Mr Petticrew said he could not speak for Mr Clarke and, if Mr Clarke said he saw Martin Dudley being shot, then "obviously he did". When asked by counsel for the MoD if he saw his own brother Brian, Mr Petticrew said that he was "probably back in the house".

9.526 It is possible that Richard Clarke and Martin Petticrew were just in different locations at the relevant time. However, that cut against the thrust of Martin Petticrew's evidence. (Since Martin Petticrew gave oral evidence in advance of Richard Clarke, he was not specifically asked about Richard Clarke's evidence as to their respective locations). In addition, it seems strange to me that they would not have stuck together when the shooting commenced, given that they did so on their

journey along Corry's wall, via the McCabes' and Gargans', to Kathleen Clarke's house. Moreover, Martin Petticrew's evidence was that, when his brother was shot at the Meenans' house, he was in the middle of Westrock Drive looking up the street (at a point in their journey when Richard Clarke would have been *with* him and therefore not in the position he claimed to be in when he saw John Dougal shot). Furthermore, I found it difficult to understand why, if Mr Clarke was still around Nos 51 and 49 Westrock Drive when he saw the shooting of several civilians, he did not simply return to his own home nearby at No 57 for safety, instead of proceeding up towards Corry's wall and onwards on the journey he described. It is unlikely, given the events he described, that he would simply have proceeded to the shop on his original errand. As between the two accounts, it made more sense to me that the two friends would have taken the journey they did to Kathleen Clarke's if, when they first heard shots, they were in fact already walking along Corry's wall in the vicinity of the Tates' bungalow at No 33 as Martin Petticrew suggested. Having found that Mr Dougal was in the Tutons' front garden, rather than their back garden, at the time he was shot, this must cast some doubt on the reliability of Richard Clarke's evidence on the point. More importantly, so too must the fact that Richard Clarke's evidence was that John Dougal was shot facing *towards* Corry's Yard. I consider that is clearly mistaken. I also note that Martin Petticrew relied on his privilege against self-incrimination when asked if he had seen anyone with guns in Westrock Drive on the evening of 9 July. I do not draw any adverse inference against him or anyone else from that answer; but I do not have the benefit of any evidence he might have given on the matter.

9.527 John Dougal's next of kin also relies on the evidence of Brian Petticrew, Martin Mulligan and Gerard Heath in this regard. Brian Petticrew gave evidence that none of those he saw (including Martin Dudley, Paddy McManus, John Dougal and his father and brother) were armed. Of course, if Brian Petticrew was the second gunman seen by Soldier A, it is highly unlikely that he would give a truthful account about this. As to Martin Mulligan, I have already expressed doubts about the credibility and truthfulness of his evidence. If he was indeed in the car with Martin Dudley on IRA business, I doubt he would give a truthful account. In addition, since, as I have found to be the case, John Dougal was moving *away* from the circle area at the time he was shot and crouched over, Martin Mulligan would not necessarily have been in a position to see whether John Dougal was armed or not, particularly if (a) John Dougal was carrying a small arm such as a revolver and (b) Martin Mulligan himself remained pinned down and/or under fire. I consider there to be a strong possibility that Martin Mulligan and John Petticrew each both wrongly (and dishonestly) suggested that John Dougal was shot whilst going *towards* the circle area as they did not wish to place him at the circle or returning from it for some reason. Again, that is suspicious.

9.528 As to Gerard Heath, he maintained that he did not even recognise the figures whom he saw coming to the front of the Tutons' bungalow, even though his evidence was that he was only a matter of yards away (and, in his account in the Springhill Massacre booklet, he had purported to recognise John Dougal). In his

account in the booklet he said that, “*All I saw was the back of them turning to run back again and then there was a heavy burst of fire*” (emphasis added). This is consistent with the account given on his behalf at the St Aidan’s Inquiry where he said that they were shot out of his eyeshot. I do not consider his evidence to constitute a solid basis for determining that John Dougal was unarmed. I have expressed a number of concerns about it at paras 9.39 to 9.43 above and do not believe he was being candid or truthful in some aspects of his evidence.

9.529 In short, I assess the direct evidence of those who saw John Dougal around the time when he was shot to be insufficiently reliable, either through dishonesty or possible error, to found a conclusion on the issue of John Dougal being unarmed. I include in this the evidence of Johanna McCullough, about which I have concerns expressed at paras 9.123 and 9.124 above. Her recollection of how John Dougal was shot is also unreliable in my view since it is inconsistent with the ballistics and pathology evidence if his body was oriented as she suggests.

9.530 The next of kin also relied more generally upon the fact that no civilian witness identified any gunman in the area around where John Dougal was shot at the time when he was shot. That is correct. The evidence of those civilian witnesses who did address the question of civilian gunmen shooting (discussed in Chapter 6) did not identify such a gunman at the precise time or location of John Dougal being shot. However, that factor must come with four caveats:

- (a) First, not all civilian witnesses who gave evidence about this were at or saw the location where John Dougal was shot, or did so at the time he was shot. The more relevant witnesses were those who were in or saw that location at the relevant time; and particularly those who purported to see John Dougal himself. That is a much more limited cohort, whose evidence is discussed above.
- (b) Second, it is possible that some of those witnesses may not have been entirely candid or that they have forgotten or ‘edited out’ of their memory the presence of other gunmen, particularly at such a remove. As discussed in Chapter 12, I consider this can occur even when a witness is being entirely honest but has come to believe a particular narrative which has come to dominate their memory.
- (c) Third, it is possible that a civilian or civilians may have been armed, particularly with small weapons such as pistols and revolvers, and had these concealed at relevant times when seen by other civilians but not firing, such that other civilians may not have been aware of them. If, as the evidence suggests, the army was firing on civilians, a natural reaction would be to keep a weapon concealed unless and until it was being used to return fire.
- (d) As also discussed in Chapter 6, a wide range of civilian witnesses relied upon their privilege against self-incrimination as to the actions or potential actions

of those who may have been involved in unlawful organisations at the time. Although that was not the case in respect of John Dougal particularly (with the possible exception of Martin Petticrew), it affected my ability to make a comprehensive assessment of the strength of the MoD case.

- (e) Finally, although not an eyewitness giving oral evidence in these proceedings, the account of Eyewitness One in the Springhill Massacre booklet *does* clearly suggest that there were gunmen at or around the circle area at some time shortly after shooting had commenced in that area. The next of kin's submissions essentially ignored the content of that account, which is properly to be given some weight in my view. For reasons mentioned in Chapter 6, Liam Stone (whom I consider likely to be Eyewitness One) did not attend to give evidence.

9.531 The next of kin also placed reliance upon the fact that Thomas Reid did not see any gunmen operating in Corrigan Park at the time when he was there. That is a powerful point, so far as it goes. I also note that Francis Lewsley's statement contains similar evidence (although untested in oral examination). However, Soldier G purported to see a gunman at Corrigan Park hill *after* the time when Thomas Reid would have been present. Moreover, when asked about a potential gunman at the pavilion or grandstand area in park, Mr Reid relied upon his opinion that it would not be possible to shoot at Corry's Yard from that position because the brick houses would be in the way. I was not persuaded that that was an adequate basis for discounting shooting from that location. Army logs in particular suggest that shooting towards Corry's Yard from at or around that location (or the Corpus Christi area just to the north of it) was a regular occurrence. That would frequently be towards the OP tower at the northwest corner of the Corry's site.

9.532 In all, I considered the next of kin's submission that "such civilian gunmen as were in the general area had *no bearing* on the soldiers' decisions to open fire at the deceased and injured" (emphasis added) to be too sweeping.

9.533 The next of kin also urged me in submissions not to approach the matter on the basis that it would be difficult to believe that the army would open fire on civilians without any good reason. They did so on three bases. First, their submissions relied upon a range of deaths at the hands of soldiers in 1972 whose shootings were not justified. I was not persuaded that this was a strong submission. In my judgement, it would be wrong to make an assumption about the soldiers on duty in Corry's Wood Yard on the relevant night just because *other* soldiers at different times and in different circumstances have been held to have fired without justification. I do not discount the possibility that a soldier or soldiers may fire with no apparent reason; but I do not consider that that should be the starting point or that it should be considered commonplace.

9.534 The second point was more forceful. It was that civilian evidence in this inquest suggested that *these* soldiers, on the same night, had shot other civilians in

circumstances where they were not armed and not in the vicinity of anyone armed. In light of my conclusions in relation to incidents 2 and 3, I consider that there is force in this submission, particularly (although not exclusively) since I consider that Margaret Gargan was shot in circumstances where she was plainly not armed and posing no risk. However, that submission also takes the matter only so far. It is possible that, at the commencement of the shooting, soldiers (rightly or wrongly) perceived a threat or attack which set the incident off and, *thereafter*, wrongly assumed that others were involved or simply began to fire indiscriminately. The earlier the death is in the sequence, the less potent this point may be in my view. The third point, to which I will return, also appeared to me to have some force, namely that there was evidence of indiscriminate firing where children who were obviously not posing a risk were targeted. Again, this could be consistent with a loss of control after soldiers had encountered an actual or perceived attack towards the start of the incident. I was persuaded, nonetheless, that civilian evidence provided in the course of the inquest indicated there to be at least an element of soldiers positioned in the wood yard shooting at those who were unlikely to be posing any risk.

9.535 There were, however, a number of further features which weighed on the other side of the scale.

9.536 Thomas Reid's evidence placed *both* Petticrew brothers, John and Brian, up towards the circle and running back towards the Petticrews' bungalow at the time when John Dougal and Brian Petticrew were shot. On Brian Petticrew's evidence, John Dougal was also in John Petticrew's company just before being shot. I have grave concerns about the truthfulness of John Petticrew's deposition to the original inquest. He describes going to Kate Campbell's house, which no other witness corroborates (although I recognise that both Mrs Campbell and John Dougal, the other two persons involved, are now deceased). In any event, this is in conflict with his brother Brian's evidence about them being together in the Petticrew house. Brian Petticrew said simply that John's account was wrong. John Petticrew also said that, when they left Mrs Campbell's, they had no intention of going anywhere in particular. I consider this unlikely to be true.

9.537 I have been persuaded that John Petticrew was more than likely a member of the IRA at this time. I am satisfied on the basis of the open material discussed in Chapter 6, and the evidence of Brian and Martin Petticrew, that John Petticrew was in the IRA at some point. As he was 19 years old at this time, I consider it likely he would have joined the organization by then, having moved on from the Fianna (or being a member of both organisations) in which very reliable intelligence reporting had placed him in March 1972. The IRA ceasefire had just broken and IRA members had been called back to arms. I think it unlikely that John Petticrew intended simply to pass the time aimlessly. On the terms of his own deposition, he was not intending to go home and relax, since he went to fetch his coat to go on somewhere else with John Dougal. I also find it extremely suspicious that, in his deposition, he purports to see John Dougal falling (and falling *back*) but makes no mention whatever of his

own brother Brian Petticrew also being in the vicinity or being shot at the same time. Although I accept that this deposition may have been drafted initially by someone else (such as a police officer) for use at an inquest focused on John Dougal's death, it is still a highly striking omission. One might also expect that a police officer would have been interested to know who else was in John Dougal's company and what else was occurring at the time of the death.

9.538 I have already commented on the fact that John Petticrew and John Dougal are said to have made a short trip to another property – whether Kate Campbell's or Kathleen Clarke's – shortly before the shooting incident occurred (see para 9.487 above). Intelligence material available from March 1972 (assessed by the authorities as very reliable) suggested that John Petticrew was the OC of the Sean Doyle Sluagh and a section leader in the IRA by September of that year, involved in using weapons. (In Brian Petticrew's evidence, he also appeared to me to accept that his brother John was involved with the Republican movement, which I understood to be an acceptance that he was in the IRA at the time of his death.) Two separate intelligence reports from September 1972 indicated respectively that John Petticrew looked after the weapons for John O'Donoghue's section and that a house opposite the ex-servicemen's club (further identified as Clarke's) was used as an arms dump. There was other intelligence material suggesting that the PIRA had a number of safe houses, where firearms and ammunition were stored, in the Springhill area. Taken together with the intelligence that the sluagh had access to weapons, in particular, revolvers, it is quite possible that John Petticrew had gone – with John Dougal – to retrieve weaponry in light of the announcement of the end of the IRA ceasefire.

9.539 The conflicting accounts as to the whereabouts and actions of the trio consisting of John Petticrew, Brian Petticrew and John Dougal in the time period shortly before John Dougal's death appear to me to be suspicious. Bobby McCrudden, who I find to have been in the IRA at that time on the basis of the material discussed in Chapter 6, and Robert Russell, who I find to be in the Fianna at the time on the basis of the material in relation to him discussed in Chapter 6 as well as my assessment of his evidence in Chapter 10, were nearby, having been monitoring communications on behalf of the IRA in the ex-servicemen's club. Added to that are three further significant factors: Robert Russell's gloves; the wearing and disappearance of John Dougal's jacket; and the claims that John Dougal was "killed in action".

9.540 Robert Russell accepted in his statement that, when he went outside with Bobby McCrudden to retrieve John Dougal's body, he (Mr Russell) was wearing gloves. He had no satisfactory explanation in relation to this; and I consider it likely that he was wearing gloves at that time of year because he was anticipating that he would, or he did, handle a firearm at or about that time.

9.541 Richard Clarke described John Dougal as having a green coat (which his mother later washed). Johanna McCullough described John Dougal as wearing a coat with a hood. The evidence of Marie Maguire, who lived across from the

Petticrews in No 48, was that when she returned to her home from St Peter's School the following day there was a parka-style coat lying on the ground, which she believed was green, just at the bungalow and it was full of blood. In the 1992 version of the Springhill Massacre booklet, Mrs Dougal's account complains that the family never got John's clothes back "just his coat". (This phrase was removed in the 1999 version). She said that when he was lying in the bungalow somebody had managed to get his coat off him, which is the only reason why they got it. A girl had brought it up to them in a plastic bag. (This element, with a minor modification, is retained in the 1999 version.) The wearing of a coat, particularly if John Dougal had gone out earlier in the evening when the weather was fine, may be thought to be unusual. Certainly, in the Springhill Massacre booklet, Mrs Butler made a point of saying that Patrick Butler had no coat on and that, "If you're going out to shoot somebody, you'll know not to go out in your short sleeves". The removal and laundering of the coat, however, may be considered suspicious in all of the circumstances.

9.542 Finally, in the MoD's submission, the clear public acknowledgement in the immediate aftermath that John Dougal was "killed in action" is highly significant and, along with other evidence, should lead me to find that this is correct. This was contained in several published death notices (see para 6.53 in Chapter 6). There may be some debate about what this could possibly mean. One might suggest that going to assist an IRA or Fianna member who was under attack by security forces constituted "action" for this purpose. However, a much more common understanding, in my view, is that the individual was involved in military or offensive action (i.e. armed).

9.543 I have found this last factor difficult to assess; but it is certainly impossible to ignore. I acknowledge the next of kin's submission that this could have represented mere propaganda and is not itself direct eyewitness evidence. I further acknowledge the point that it is unclear precisely who procured the publication of the relevant death notices in these terms. But these forensic points must also be tempered with a dose of common sense. It cannot be the case that such published content, or murals or plaques publicly displayed, can be given no material weight unless their authors are identified and called to give evidence. It is accepted by the family that John Dougal was in the Fianna. He is now a celebrated member of the Republican fallen. His grandfather produced mass cards suggestive of his being in the IRA. He has been painted on a local mural bearing arms, albeit that, as I entirely accept, this is plainly not designed to be a representation of an actual event (given that he is pictured with others who are unlikely to have been together with him at any relevant time) and appears likely to have been painted sometime after 1988. Nonetheless, he is portrayed as armed and wearing a brown, military-style jacket or tunic.

9.544 I find it difficult to accept that John Dougal's family would not have been aware of the death notices at the time. It is only natural, and would have been more so at that time, for families to take an interest in the notices that have been placed in

local newspapers for recently deceased relatives. If the Dougal family did not see them initially for themselves, I cannot imagine that they would not have been drawn to their attention. Notwithstanding this, no complaint or objection appears to have been raised. If John Dougal had been part of an (anticipated) armed attack on Corry's Yard in some way on 9 July 1972, those who most likely placed some of these death notices would also likely have been well placed to have known about this. The publication shortly afterward of the IRA timetable of events (on 11 May in the *Irish News*: see para 3.100) indicates that the IRA leadership had a clear and detailed view, shortly after the incident, of what they considered to have occurred. Although John Dougal is not indicated as having died on active service on the mable list of Republican dead in Milltown, he is for example included in the Ballymurphy monument to "all those volunteers from the area who gave their lives *in the fight* for Irish freedom" (emphasis added), along with individuals such as Jim Bryson and Bobby McCrudden who were known to have been killed while on active service. There are also references to his having been killed in the course of a gun battle in Republican publications such as the *Belfast Graves* book and *Tírghrá* (although it is right to note that there are inaccuracies in each of these in that Angelo Fionda is also noted as someone killed).

9.545 Although I do not read very much at all into this, there was also evidence about someone, who I understand from the evidence to have been John Dougal, shouting for the priest. One sees this, by way of example, in the deposition of William Macklin. There appears to have been a sense of urgency in securing a priest for John Dougal and in Fr Fitzpatrick getting to him. One reason for this may be if John Dougal wished to avail of the sacraments in light of whatever activity he was involved in just prior to being shot.

9.546 It is quite possible that there was an exchange of fire after Martin Dudley was shot. Mr Heath described "frenzied" shooting just after Martin Dudley was shot, including what he described as semi-automatic fire or very rapid fire. This was just at the time before he saw John Dougal and Brian Petticrew, at which point he heard more "automatic" gunfire (which he believed was fired in their direction). Potentially significantly, his evidence was that he did not see anything to indicate where the shooting was coming from but, rather, he could *hear* where it was coming from (see para 9.22 above). He did say that he did not see anyone shooting at the army. However, he described a lot of shooting going on at or around this time. The account of Eyewitness One (corroborated to some degree by the contribution of Mrs Butler) in the Springhill Massacre booklet, also provides support for the suggestion that there were armed civilians in and around the area of the circle shortly after the shooting commenced.

9.547 SM100's evidence as to what he heard that night was similar in some respects to what Gerard Heath heard, namely a lot of shooting. In describing the period of intensive gunfire after the QRF arrived, his evidence was that he heard incoming fire as well as outgoing fire, with the incoming fire being greater than the outgoing fire and consisting of both high and low velocity rounds. None of the ciphered soldiers

purport to have had or to have used low velocity weapons (albeit any officers present may have had a pistol). This suggests that there was firing at the army from civilians armed with short-barreled weapons.

9.548 The radio log entries discussed at para 9.388 above refer to a gunman having lain for a long time before having been dragged away. That might well be a reference to John Dougal, providing further evidence from a contemporaneous report, that he was armed at or just before the time he was shot; although I acknowledge that the report may also, or instead, refer to the shooting of Martin Dudley.

9.549 The evidence available, and relied upon by the MoD, has not persuaded me on the balance of probabilities that John Dougal *was* armed at the time, or just before, he was shot. I am not prepared to accept as true the full content of the ciphered statements. In particular, I bear in mind that soldiers seeking to account for a death or injury that they had caused would be motivated to allege that the injured person was armed, even if they were not. I have also taken into account the fact that I consider elements of Soldier A's statement in relation to incident 2 to be untruthful.

9.550 At the same time, and in the full context discussed in Chapter 6 and above, there is enough doubt about this question in my mind that I have also not been able to conclude, on the balance of probabilities, that John Dougal was *unarmed* at all times material to his being shot. For reasons given later, I still consider that, in either event, his shooting was outside the guidance set out in the yellow card. Nonetheless, having agonised over the evidence on each side, I cannot soundly reach a conclusion one way or the other as to whether John Dougal was or was not armed at or about the relevant time. In all of the circumstances, I am deeply suspicious of the actions and intentions of those in the car travelling east which was fired upon; and of John Petticrew, Brian Petticrew and John Dougal, as well as Bobby McCrudden and Robert Russell, at or around the relevant time. There is a reasonable case that John Dougal was unarmed at the time; but also a reasonable case that he may have been in light of the content of the ciphered statements and a range of other circumstantial evidence discussed above. Thomas Reid's evidence is the high-point of the civilian evidence that John Dougal was unarmed, at least at the time of the actual shooting; but, for the reasons given, I do not consider his evidence bears sufficient weight to prove this issue on the balance of probabilities.

9.551 In my judgement, this falls within the sphere where, consistently with the authorities discussed in Chapter 12, I can and should decline to make a finding.

Conclusions from the evidence

9.552 I have provided further detail of my conclusions about incident 1 more generally, and how it relates to incidents 2 and 3, in the course of Chapter 12. For present purposes, however, I find that John Dougal was shot in the garden of 60 or 58 Westrock Gardens, between 9.30 pm and 10.00 pm on 9 July 1972 and most likely

at or about 9.50 pm. He was shot in the back by a soldier positioned in Corry's Timber Yard, more likely than not to have been Soldier A, whilst bending over for cover and running south from the direction of Westrock Drive towards the Petticrews' bungalow at 56 Westrock Drive. This was a direct, aimed shot and not a ricochet. He died within a few minutes of sustaining his gunshot injury by reason of laceration of his right lung. I am unable to conclude to the standard required whether or not he was armed either at the time of, or immediately before, being shot.

9.553 In Chapter 12, I discuss in more detail the approach of the ciphered soldiers, and particularly that of Soldiers A and E, to the instructions set out in the yellow card. However, I have reached the following conclusions in relation to matters relevant to that:

- (a) There is no evidence whatever that a warning was shouted at John Dougal before he was shot. (There is a reference in the Brigade Log to orders being shouted at men debussing from a car: see para 9.461 above. However, I do not consider that John Dougal was an occupant of the car; and John Dougal was shot some time in advance of this entry. It is not a sound basis for concluding that any warning was given to John Dougal before Soldier A fired on him.) Soldier A does not suggest in his statement that any warning was given before the firing incident which I consider likely to relate to John Dougal. I find that he was not warned.
- (b) Even assuming that a warning could be dispensed with if there was hostile fire in the area, since I have not been satisfied that John Dougal was armed, I have not been persuaded that Soldier A was permitted to fire in accordance with para 13 of the yellow card.
- (c) Even assuming that John Dougal was carrying a firearm at the moment he was shot (which I have not found established), I am satisfied that he was not "using" that firearm at the time he was shot and, indeed, was running away from Corry's Yard. There was no indication that he was about to use it, rather than retreating to safety.
- (d) Given that John Dougal was shot in the back whilst running away from Corry's Yard, and in circumstances where Soldier A (and the other soldiers) were concealed within the yard, any firing at John Dougal did not represent the minimum force necessary in compliance with para 2 of the yellow card.

9.554 In the absence of hearing oral testimony from Soldier A, I cannot reach a concluded view on whether he had an honest belief, at the time he shot John Dougal, as to whether he needed to use force to defend himself or others from unlawful conduct on the part of John Dougal. He may have formed such a view, even if objectively mistaken. The actions of John Dougal in running away from the circle area would militate against the formation of such a belief; but that depends on Soldier A's apprehension and assessment of all of the circumstances. Nonetheless, in

the circumstances as I have found them to be, with John Dougal shot in the back as he ran from the circle area, and taking into account the requirements of the yellow card, the force used by Soldier A was not reasonable.

10. DISCUSSION OF EVIDENCE *RE* INCIDENT 2

10.01 It is uncontentious that, in July 1972, Fr Noel Fitzpatrick was 42 years old and a Catholic priest ministering in St John's Parish on the Falls Road; Patrick Butler was 37 years old and an employee of Belfast Corporation; and David McCafferty, by far the youngest of the three, was 15 years old and a schoolboy. Quite a few civilian witnesses gave evidence relating to the shooting, and recovery of the bodies, of each of the above on 9 July 1972.

Civilian evidence *re* deaths and recovery of bodies

Catherine (Kate) Donnelly

10.02 Kate Donnelly, who resided at 80 Westrock Drive, gave evidence to the inquest on 13 November 2023. She had provided a written statement to the inquest, which she adopted as her evidence. She had also provided a previous account to KRW Solicitors in 1999. Further, the Springhill Massacre Booklet contained an account attributed to her, about which she was questioned. Fr Fitzpatrick's body was moved to her house after he had been shot.

10.03 On 9 July 1972 Ms Donnelly, then 22 years old, was off work and at home with her sister Margaret and her father. Around tea time, she heard from neighbours that the ceasefire had broken down in Lenadoon and that there was trouble. She remembers hearing shooting. It seemed to be at the back of the house. There was a lot of shooting; it was single shots. She went upstairs to see if she could see anything out of the windows. She could not see anything. She said it was daylight and no one was about.

10.04 She did not know what time it was, but she remembered seeing Fr Fitzpatrick and Paddy Butler going past the living room window in the direction of the tin bungalows where the Petticrews lived. They were walking, not running, and were close to the window. She could see them down to their legs and said, in answer to questioning from Mr McIlroy, that she did not see any firearms with them. (She heard later they were on their way to give Martin (Dudley) the last rites.) She marked on a map appended to her statement the line that Paddy Butler and Fr Fitzpatrick had walked just before they were shot (going east, away from Corpus Christi Church, towards the Fosters').

10.05 Shooting was continuing and almost immediately she heard someone shouting to open the door as the priest has been shot. She opened the side door of the house, and three fellows carried a man into the house. There was a fellow on each arm and a fellow carrying his legs. One of the men was Brian O'Kelly. She could not remember who the other fellows were. They placed Fr Fitzpatrick in the living room on the floor. She described him as looking like he was drawing his last breath and with a big hole on the right side of his neck. Two of the men then left and Brian O'Kelly remained and sat for a while, looking as though he was in shock.

She rendered assistance to Fr Fitzpatrick, placed a pillow under his head, and banged the neighbouring wall to try to get Mary Moore to come in and help. She said the priest was dressed in black trousers and shirt, and she thought he had on a priest's collar but was unsure if he had a jacket on.

10.06 Mary Moore came in to help and, later, Mother Teresa nuns arrived. Ms Donnelly did not know them. She remembered opening the living room window wide to look out and saw that Paddy Butler's body was lying on the street. This was at position 'A' on the map appended to her statement (in the alleyway between Nos 84 and 86 Westrock Drive). His feet were closer to where Ms Donnelly was; and someone had covered his body with a coat. About two hours later, Canon Murphy arrived. He came into the house through the living room window because of the shooting; and Ms Donnelly thought he gave Fr Fitzpatrick the last rites and then he left saying he was going to get an ambulance, but he never came back. Fr Donnelly arrived and asked if anyone in the house or neighbours wanted absolution; and he heard confessions in the kitchen.

10.07 In Ms Donnelly's recollection, about 2.00 am an ambulance from the Order of Malta arrived and took Fr Fitzpatrick's body away. She also saw Paddy Butler's body being lifted into an ambulance and could hear Mrs Butler screaming, "Paddy". She only heard at that stage that Dee McCafferty had been shot and taken to another house nearby.

10.08 Ms Donnelly said she had believed that it had been loyalists who had been shooting at them that night as she did not think the army would do that. However, rumours were circulating among people in the estate that it was the army which was involved. There was shooting all night and there was a bad atmosphere which went on for days. At that stage she thought it was "Orangies" or the UVF in Corry's Yard. Everybody thought that was who it was. Asked about why she thought initially that the shooting had been carried out by loyalists, she said she just assumed that. It was not long after this that the army was blamed because, she said, they gloated on what happened.

10.09 Ms Donnelly said she did not see any gunmen at or near her house shooting towards Corry's Yard. She did not remember saying that people were "active" (as attributed to her in the Springhill Massacre pamphlet). Ms Donnelly's evidence was that there had been no shooting until Martin Dudley was shot. (However, given that she was in her house when the shooting commenced, it is difficult to see how she could provide reliable evidence in relation to this.)

10.10 On the Monday after the shooting, her sister Margaret left and went to Bangor and stayed there, where she eventually settled. That is when they found out it was soldiers who had been shooting.

10.11 Ms Donnelly was referred to a copy of the Springhill Massacre booklet, in which an account attributed to her appears. She said that she remembered being

interviewed for the pamphlet and thought the interview was conducted by a local person. In her statement to the inquest, she corrected the account attributed to her in the pamphlet as she did not remember saying that "Fr. Donnelly came and gave absolution to all the fellows that were active that night." She said this was incorrect: everyone who was in the house and all her neighbours were offered absolution that night. When referred to the entry stating, "I don't know what started the shooting in the first place, but I learned there was a car and the Brits had opened up on it", she said that she had heard this "in the shop" a few days after the events.

10.12 The witness was also asked about the passage in the Springhill Massacre pamphlet attributed to her which stated that those who were 'active' "had lost a gun and were running about all over the place looking for it" and the fact that she had not indicated in her inquest statement that she had not said that (as opposed to other portions she *had* corrected). She said she only saw the Springhill Massacre pamphlet ages after the events and that she had not said this. She said that nothing like that happened that she remembered; and the first that she had seen this passage in the booklet was when she was giving evidence in the inquest. Asked by Mr Aiken about people being "active" that night, Ms Donnelly indicated that she knew what that meant, namely that people were protecting others, but she denied that she ever saw anyone with guns.

10.13 Ms Donnelly indicated that she thought she did get a copy of the second version of the pamphlet. It was put to her that someone had edited her original version and taken bits out of it and she indicated that she did not know who did that.

10.14 She denied knowing fellows who were "active" that night. She was asked to tell me who the persons were who were "active" and who were in her house. After receiving a rule 9 caution, she declined to answer; and also declined to answer questions about who in the area was active (in that sense) at that period in 1972.

10.15 I am afraid I found some of Ms Donnelly's evidence unconvincing. I believe the core of her account (about having heard shooting and seeing Fr Fitzpatrick and Mr Butler before they were shot; and then seeing their bodies, particularly that of Fr Fitzpatrick which was brought to her house, after they were shot). However, I did not believe Ms Donnelly's evidence in relation to the content of what was said in the Springhill Massacre booklet. She remembered giving an interview which formed the basis of her account. (This chimes with the evidence about the process which was given by Tony McCabe, discussed in Chapter 5. I formed the view he would be quite careful about the interviews and that, as he indicated, contributors would have a chance to correct matters before the initial publication.) I did not find it credible that, in light of that, and having been named as a contributor to the booklet, no one ever spoke to her about the booklet and she did not see it until the inquest. She gave evidence to the effect that she had got a copy of the first version of the pamphlet but had not looked through it or read her account. I found that not to be credible at all. She purported not to have said things attributed to her both in the booklet and in her

(later) interview with KRW. I formed the view that she was prepared to change her account to remove details which did not fit easily with the narrative she now wished to present or which, she might have felt, would not be welcomed by others. I was also concerned that her evidence – particularly some of her earlier accounts – evinced a general willingness to repeat as fact matters of which she had no personal knowledge but which she had picked up later from general discussion with others.

Margaret Simpson (née Donnelly)

10.16 Kate Donnelly's sister Margaret, now Margaret Simpson, also gave evidence to the inquest. Her oral evidence was heard on 19 March 2024; and she had provided a written statement dated 7 February 2023. She had also provided a deposition to the original inquest. She did not recall providing this, or attending the inquest, but was content that it was a true account.

10.17 Mrs Simpson's evidence was that, in July 1972, she was 24 years old and lived with her parents and siblings at 80 Westrock Drive. She was the oldest child in a family of eight and worked at a café in Bangor. As 9 July was a Sunday, she was off work and at home with her sister Kate and her father. Her mother and the other children were in Dublin. She and Kate were watching a film in the living room but could see from the living room window kids playing outside the front of the house. Her father was not in the house at that time; she thought he was probably in the bar.

10.18 Mrs Simpson was unsure of the time but said she remembered seeing Fr Fitzpatrick and Patrick Butler, each of whom was known to her, walk past the window of their house. (She said that, where the TV was, you could see right out the window.) She was unsure how Fr Fitzpatrick was dressed and could not remember what direction they walked in, whether towards or away from the church. She said they were walking, rather than running, crawling or standing. However, after they had walked past she heard shooting a short while later. It had all been quiet before this. She did not know how long this was after they had passed the window; she could not remember. She did not know where the shooting was coming from as she was inside the house. (In later evidence she said that the shooting then continued for a long period of time but she could not say how long.)

10.19 There was then a knock at the door. Mrs Simpson could not remember who knocked the door but a number of men then carried Fr Fitzpatrick into the house through the door. In her statement she said she could not remember who the men were. In oral evidence she said she did not know who they were even at that time of the event, as she was not familiar with the neighbours (given that she worked in Bangor). The men then left. She did not believe Brian O'Kelly stayed; and said no-one stayed.

10.20 Fr Fitzpatrick was placed on the living room floor. (Mrs Simpson said her mother would have been annoyed that he was on the floor rather than placed on a bed.) She thought Mary Moore from 82 Westrock Drive had come in to help her

sister. Two nuns, possibly more, arrived at the house and treated Fr Fitzpatrick. She remembered that Fr Donnelly also came but she did not think she had spoken to him. She saw the nuns and Fr Donnelly arrive. However, she did not know of any other civilians who may have come to the house as she said she then went upstairs and did not return downstairs. Sometime later, she did not know when, the Order of Malta ambulance arrived and took Fr Fitzpatrick away. She did not leave her house that night and did not see any gunmen firing back at Corry's Yard from the view from her home, nor did she see anyone with a gun that night.

10.21 Mrs Simpson indicated that, over the years, she had tried to put all of these events out of her mind, so her memory was not as sharp as it had been. She would have preferred not to attend court and felt that she really had no evidence to provide to the inquest. However, she duly did attend court and was questioned about her statement.

10.22 When asked about Fr Donnelly offering absolution to others, Mrs Simpson said that there were no others there when he arrived. She said that she had never read the Springhill Massacre booklet when questioned about the account in it which is attributed to her sister. In answer to questions from Ms McDermott on behalf of the MoD, she said that Fr Donnelly did not give absolution; and she was sure her sister would not have said this. She also did not remember Fr Murphy being there; nor remember anyone coming in through a window of the home. Indeed, Mrs Simpson's evidence was that no-one else came into the house that night. When asked how she would know this if she was upstairs, she said that she came down to get tea; and also that she did not see or hear anyone else in the house.

10.23 There were obviously some elements of this witness's account which were inconsistent with that of her sister who was in the house with her. In particular, there appears to be a discrepancy as to whether Fr Murphy attended the house at all that night; whether Fr Donnelly gave absolution to anyone; and, indeed, whether there were other civilians in the house (other than the men who brought in the priest's body and promptly left, on Mrs Simpson's account, and the nuns.) I considered she was generally an honest witness but had tried to limit her involvement with the events on the night and had very much tried to put matters behind her since, such that her knowledge or memory of the incident may have been somewhat limited. I did not find her evidence as to what happened in the Donnelly house particularly reliable, therefore. I do believe she saw Fr Fitzpatrick and Patrick Butler going past her window; but her evidence was of limited assistance in terms of further detail.

Mary McVeigh

10.24 Mrs Mary McVeigh gave evidence on 13 November 2023. She had given two statements to the inquest. The first she described as "like a fairy-tale"; and she made some corrections to its content in her second statement. She described having signed the first statement, prepared for her by my investigator on foot of an interview with

her, without reading it properly. She said she did so the night before giving her evidence, which resulted in the second statement which appended notes to correct inaccuracies in the earlier one. Additionally, she produced some family photographs showing various aspects of relevant locations in the area.

10.25 Mrs McVeigh had lived at 76 Westrock Drive and was 21 years old at the relevant time, with two young children. She said that she came up home from the St James' Road direction around the bottom of Whiterock, having been told by her father-in-law that the ceasefire had broken down in Lenadoon and that there was shooting in that area. On her way home, which took her past Corrigan Park, she could hear shooting but did not know where it was coming from. When asked about this by Ms McDermott for the MoD, Mrs McVeigh said she did not hear any shots when walking home in her own area: it was when they were at the bottom of the Whiterock Road, quite a bit away. She said - convincingly, in my view - that, if she had heard shots in her own area on the way home, she would have gone back the way she had come. That would be a natural reaction when accompanying your two young children.

10.26 The route described involved Mrs McVeigh walking along a path between the Westrock bungalows and the back of the houses on Whiterock Gardens. This brought her out at the wall of Corrigan Park and she walked up past Kate Campbell's house at 54 Westrock Drive into the Springhill flats. She had two prams with her.

10.27 Mrs McVeigh got into her house and heard a couple of shots. She said this was the first time that she heard any shots *nearby*. She said she saw Patrick Butler run past her house with someone else and go through the side gate of Corpus Christi Church, which she assumed was to get a priest. (She knew Mr Butler as a neighbour but had not spoken to him.) She said he came down the passageway where her front door was, where she heard his feet, and he turned right and ran across her window towards the church. He was with a young lad who looked about 15 years old. From the way they were running, she thought something had happened. She watched them from her window go into the side gate of the chapel (which, she said, was always open). Mr Butler then came back past her house with Fr Fitzpatrick and another fellow whom she did not then know, with two nuns who were slower following behind. The priest was in front of Mr Butler and the other person she described as a "lad". At the time she did not know David McCafferty but later saw photographs of him and recognised him as the young lad with Mr Butler and Fr Fitzpatrick.

10.28 A few seconds later there was more shooting and she opened her living room window wide to see what was happening and looked out towards the tin bungalows. She could not really see Fr Fitzpatrick or the lad at all. However, Paddy Butler was lying on his back on the ground with blood running out of him. Mrs McVeigh marked the locations on a map exhibited to her first statement showing the body of David McCafferty closest to Corry's, with Fr Fitzpatrick's body further back

and Patrick Butler's further back again. In her second statement, she clarified that the positions of "the lad's" body and that of Fr Fitzpatrick were not visible from her viewpoint. In oral evidence she said Mr Butler's body was between the two corner houses (Nos 84 and 86) but a bit closer to No 84. He was lying on his back with his head towards No 86. She did not actually see them being shot or falling. She did not see anyone else outside or in the street at this point but did not know if anyone was outside.

10.29 Asked about the time period between the initial shooting which she had heard and seeing Mr Butler and the young lad go past her window, Mrs McVeigh indicated that she thought this was a few minutes but she was not sure. From Mr Butler going past her window going *towards* the chapel and then returning was just a few minutes, which she thought was two or three minutes. Later, when questioned by Mr Skelt, she said that it was only a couple of seconds from when Mr Butler and David McCafferty passed by her window until she heard the shots.

10.30 Mrs McVeigh said it was the talk of the street that the shooting was at people using the reflections (in house windows) of them moving around the alleyway; and they would have been 'picked off' using the living room window of number 86, the Mills' house. She said the shooting appeared to be coming down through the open spaces between the houses. Someone was shouting, she did not know who, urging others to stay in their houses as "they're shooting from Corry's". Mrs McVeigh was asked how she knew that the shooting was coming from Corry's Yard and she said this was because you could hear the direction it came from.

10.31 Mrs McVeigh indicated that she did not see anyone using or carrying a gun; and denied that she had heard about anyone being in the IRA subsequent to these events. She specifically said, in answer to a question from Mr Mansfield, that she did not see David McCafferty, or either of the two others, carrying a weapon of any kind when they passed her window, when they were just a few feet away from her. She described them as being on "a mercy errand" (although that obviously involved an element of assumption on her part). In answer to a question from Mr McIlroy, Mrs McVeigh indicated she also did not see any weapons on the ground when she saw Patrick Butler's body.

10.32 Asked by Mr Skelt what the shooting sounded like, Mrs McVeigh said it was single shots and they were loud. Asked about the general direction of the shots, she said they came from the direction behind her house.

Patrick Butler

10.33 Patrick Butler's evidence has been discussed in detail in Chapter 9. His evidence was that he was a direct eyewitness when Martin Dudley was shot. His evidence was largely relevant to what has been termed 'incident 1' in this inquest. However, as the son of one of the deceased (Patrick Butler Snr), and having given

some evidence about his father's actions that night, his evidence is also relevant to incident 2.

10.34 As discussed in Chapter 9, Mr Butler's evidence was that Fr Fitzpatrick arrived in the street with Mother Teresa nuns, trying to get to the car where Martin Dudley had been shot. On Mr Butler's evidence his father, Patrick Butler, came downstairs at that point, spoke to Fr Fitzpatrick, and then went with him down the passageway between the Springhill flats opposite their house. This was a few minutes before Fr Fitzpatrick was reported to have been shot.

10.35 Mr Butler thought that Fr Fitzpatrick arrived on the scene about 20 minutes after the firing started and that there was still intermittent shooting going on at that stage. His recollection was not, as Mary McVeigh's was, that his father had gone to Corpus Christi to get Fr Fitzpatrick. Rather, his evidence was that Fr Fitzpatrick first came to the area of his house and then his father accompanied the priest. They went down the passageway between the Springhill flats because it was not possible to get to Mr Dudley's car directly along Westrock Drive. He did not have any further relevant evidence to give in relation to the shooting of his father. He and his mother learned, later in the evening, that his father had been shot and died.

Patrick McClory

10.36 Patrick McClory gave evidence on 21 November 2023. He was a volunteer with the Order of Malta and was with the ambulance which ultimately collected Fr Fitzpatrick's body. His written statement to the inquest was read and adopted by him. He also adopted a short deposition given by him for the purpose of the 1973 inquest. He was not called to give oral evidence at that inquest. The deposition purports to have been taken on 10 July 1972. It describes in brief terms collecting the body of a priest in a house near Corpus Christi Chapel and taking it to the RVH.

10.37 In July 1972 Mr McClory was 22 years old and employed as a telecom engineer. He also volunteered as a designated ambulance driver with the Order of Malta. About 7.00 pm on 9 July 1972 he described that there was tension in the air and he and two colleagues travelled to the Order of Malta's mobile first aid post at Fr Des Wilson's house, just off Springhill Avenue, to provide supplies. He had come on duty about 6.00 pm. Whilst at the first aid post he was approached by locals and asked if he was a telecom engineer. They asked him to fix the phone line which was broken at the Mother Teresa Nuns' House in Springhill. (This was at 123 Springhill Avenue, close to the Springhill Community Centre. Mr McClory thought this was the only phone in the area.) The locals provided him with ladders and equipment. He went to the telephone pole marked on the map (near the west wall of Corry's Yard) to fix the line. He did this 15 to 20 minutes after arriving, perhaps half an hour. He said that sporadic shooting was already happening in the area which was coming from Corry's Yard and Springmartin. It took him 5-10 minutes to undertake the repair.

10.38 Mr McClory said that a couple of fellows appeared, one of whom had a rifle, and said that they would help. He did not know these men and did not see where they came from. One man held the ladder, and the other man covered him with a rifle. He remembered that the man with the rifle “fired a couple of warning shots towards Corry’s Yard”. Mr McClory went up the pole and fixed the phone line. He did not know who the men were and did not see anyone else with guns that night, nor did he see the man fire anywhere else. He said the man with the rifle fired a couple of warning shots as he was going up the pole. He heard him fire the shots and assumed he was firing into Corry’s Yard. He did not hear anything in response or any shots after this. (If Mr McClory was incorrect in his timings, it could be possible that these shots were those recorded in the army radio logs around 21.00.) The man with the gun had a mask or “bandito” over his face. Mr McClory was questioned by Mr Turkington, who asked about the person with the rifle at the foot of the ladder, and he said that the man discharged two shots and was facing towards Corry’s Yard at the time. He assumed the two men were local (although he did not know) as they appeared to know who he was and they arrived on foot in short order after he had arrived.

10.39 After fixing the telephone line, Mr McClory returned to the mobile first aid post and then returned to the Order of Malta Headquarters at Sultan Street about 8.00 pm. Early the next morning, about 1.00 am on 10 July 1972, he received a call that a priest had been shot in Springhill and he went to a house near the shop on Springhill Avenue. In the living room, he saw the body of a priest whom he now knows to be Fr Fitzpatrick. He said they put him in the ambulance and took his body to the Royal Victoria Hospital. I asked Mr McClory what Fr Fitzpatrick was wearing when his body was recovered and he indicated that, to the best of his recollection, he was just wearing his shirt and he thought dark trousers; he had no clerical collar on.

10.40 He gave evidence of an encounter with an RMP officer at the RVH, who was wearing a red cap. Mr McClory described him as very aggressive and uncooperative. He was asked about his evidence that later that night he was stopped by the Parachute Regiment and asked whether it might have been a different night that he was stopped by them. He said definitely not and that he was nearly 99.9% certain.

10.41 On being questioned about the location of the house where Fr Fitzpatrick’s body was collected, Mr McClory said it *could* have been from Kate Donnelly’s house. He was not *au fait* with the area. The house he indicated on the map (around 78 Springhill Avenue) was his recollection; but he said that No 80 Westrock Drive could well be right. He did indicate that he remembered shops nearby.

Margaret McClory

10.42 Margaret McClory (née Stafford) also gave evidence on 21 November 2023. She was the ex-wife of the previous witness, Patrick McClory, and had been a

volunteer with him in the Order of Malta in 1972 and present during the events he described. Her statement to the inquest was adopted as her evidence. She had very little recollection of events but broadly confirmed what Mr McClory had already said in relation to the collection of Fr Fitzpatrick's body. She too did not know the exact address or area from which the body had been collected. She had very little recollection of the incident with the telephone pole since she was inside at the time. On being questioned by Mr Scott, she indicated that she did not recollect seeing what Fr Fitzpatrick was wearing at the time; but accepted that, if he was wearing a white collar and clerical stock at the mortuary, she would assume that he was wearing this when they removed his body from the house.

Gerard Mateer

10.43 Gerard Mateer, who gave evidence on 23 November 2023, was 11 years old at the time of the deaths relevant to this inquest. His statement addresses gunfire to and from Corry's Yard and the location of the bodies of David McCafferty and Fr Fitzpatrick. He indicated that he had never provided an account to anyone before in relation to what he had seen that day. No-one had ever approached him or asked him for a statement. However, he saw the appeal for witnesses in relation to this inquest and contacted the LIU directly himself.

10.44 Mr Mateer lived in the St James' area of Belfast. He said that, on 9 July 1972, following reports of rioting, he went up the Whiterock Road to see what was happening. He went past St Thomas' School and past Ballymurphy Road and came upon a large crowd of about 100 people who were heading in the same direction as him. He did not know where the crowd came from. He said suddenly "the Brits" were firing teargas and everybody headed back down and then up the Ballymurphy Road. He himself did not see any teargas being fired by soldiers but this is what other people were saying. He said "loads" of the crowd went into the Whiterock area. He described the time of these events as "coming up to the evening." He said he did not know anyone in the Westrock area and just followed the crowd as they ran from the Whiterock Road.

10.45 Mr Mateer said he went into Springhill. There was shooting coming from Corry's Yard. He ran between the houses to a location (marked on a map appended to his statement) between Nos 87 and 89 Westrock Drive (near a block of flats near the southwest corner of the Corry's premises). At this point he described the shooting as constant, single shots which were very loud. He would now say they were probably high velocity rounds being fired due to the noise they were making. The shooting was coming out of Corry's Yard but he could not see who was shooting. He said, because of the shooting, people were running about the place panicking. There was shooting coming from the yard down through the houses in the spaces between the blocks. The witness kept trying to look into the alley from his position.

10.46 At this point, a man appeared and shouted at him that he was going to be shot. Mr Mateer vividly remembered the words used, which were not polite. The man stood at the position marked, between Nos 87 and 89 Westrock Drive in the Springhill flats. In his written statement, Mr Mateer said that the man “fired a couple of rounds at Corry’s yard with a handgun, and then disappeared”. Mr Mateer did not know the man. In oral evidence, he said that he was about 15 feet or so away from the man, who was in civilian clothing and unmasked. He had a handgun and he fired four to five rounds at Corry’s Yard. He was pointing the gun at Corry’s Yard and was putting his hand around the corner and shooting. The man with the gun disappeared and Mr Mateer does not know to where he went. He did not see the man later at any stage in that evening.

10.47 Because he could not go across the space to the houses in front, he turned and went back the way he had come. He marked this with a line on the map appended to his statement. This took him around the block of flats and in front of Nos 98, 95, 73 and 71 Westrock Drive, before he turned right and went down the passageway between Nos 64 and 66 Westrock Drive. He ran along by the houses for cover because of the shooting, crossing the road when there was a lull. He thought the shooting was coming from Corry’s Yard because that is where the sounds were coming from and people were saying, “They’re firing from Corry’s Yard”. He did not hear any other shooting at any stage.

10.48 Mr Mateer saw David McCafferty’s body at a position marked ‘B’ on his map (outside No 84 Westrock Drive where it faces No 58). He knew David McCafferty because his older brother Kevin went to school with David McCafferty, and Mr Mateer had “seen him about”. He also saw a priest’s body, the location of which he marked ‘C’ (outside No 86 Westrock Drive, where it faces No 54), that is, further away from Corry’s Yard. He went over to where the bodies were lying. David McCafferty was on his back with his feet facing towards Corry’s Yard. There were 4-5 people attending to him and there was no shooting at that stage. There were also some people round the body of the priest. Mr Mateer could not remember what clothes the priest was wearing or how he was lying. However, he said he was sure at the time that he knew it was a priest who had been shot. He was asked about seeing the body of Fr Fitzpatrick and David McCafferty and he said they were the only two bodies that he saw at that time. He could not remember seeing another. He said that there were people scurrying around everywhere; and, on re-examination by Mr O’Rourke, that, when he went down the passageway between Nos 64 and 66 Westrock Drive he had seen others there, some going the same way as him and some going the other way.

10.49 Mr Mateer was questioned by Mr Heraghty about the basis of his evidence that the shooting was coming from Corry’s Yard and whether this was what he had heard. He said that he did not need to be told; he knew himself where the shooting was coming from. He also said he knew that the incident with the crowd on the Whiterock Road had been that same day. He was further questioned by Mr McIlroy who asked if it could have been some distance away from the Whiterock Road that

he had encountered the crowd and he said “no”. He was asked if the crowd could have been as few as only fifteen to twenty people and he said it could have been, although he had previously guessed 100. He said that when the crowd dispersed a lot of them went up the Ballymurphy Road and into the Springhill.

10.50 I generally found Mr Mateer’s evidence credible. It is significant, in my view, that he volunteered to come forward and provide information in response to the LIU appeal for witnesses. His evidence was frank and even-handed, in that he gave evidence both of shooting from and to Corry’s Yard which he had seen or experienced. He remembered specific details and gave reasons for this; but was quite prepared to accept that there were elements he did not remember and on which, therefore, he did not wish to adopt a position. There are, however, a number of details of his evidence which do not appear to sit easily with the preponderance of evidence from others, particularly in relation to the positions of the bodies of Fr Fitzpatrick and David McCafferty (and the absence of the body, at that point, of Patrick Butler). It seems possible to me that Mr Mateer may have been mistaken in relation to this and that, perhaps, the body other than that of David McCafferty was actually Patrick Butler, with Fr Fitzpatrick’s body already having been moved into a house.

David McCafferty

10.51 David McCafferty gave evidence to the inquest on 7 March 2023. He is the father of David McCafferty (deceased) and, *inter alia*, gave further evidence about the effect of his son’s death on their family, with several of his children moving away to Canada in due course. On 9 July 1972 he was 42 years old and lived at 23 Ballymurphy Drive with his wife, four daughters and three sons. He had given a statement to the inquest which he adopted, along with his original inquest deposition dated 26 July 1973, which was very brief.

10.52 Mr McCafferty recalled that on the evening of 9 July 1972 a couple of young lads of similar age to David called at the house. He had seen these lads before but did not know their names. They talked for a while and then left. He said David was in the company of two or three young lads. Mr McCafferty recognised them but did not know their names. He believed that they were going to a local community centre in the Springhill area, the Shamrock Club (although this name was going by what he had said in his 1973 deposition). He knew of this club which he said was in one of the aluminium bungalows on Westrock Drive which had been converted into a youth club with facilities like table tennis for the local kids. He believed it was an official youth club and community centre which was funded by government in some way. He said it was around a 15 to 20 minute walk from his address to Westrock Drive.

10.53 It was a bright, clear summer’s night. He believed the boys left around 9.00 pm. Asked if it could have been 9.30 pm, as suggested by his wife in another account, he said that he just could not pinpoint it. (His 1973 deposition said that

David left about 9.15 pm.) He was able to say that it was “still dead clear” (suggesting that it was still in daylight). Mr McCafferty said that he was not aware of any trouble in the area that night and that, had he been, he would not have let David leave the house. He did not believe that he would have known there was an IRA ceasefire as he took no interest in politics. (There are notes in the HET materials of an account given by David McCafferty Snr to the HET in June 2007, in a meeting with him along with Colette McCafferty and Anne Begley, which were not raised in the course of his evidence. In those notes, it was said that David had gone out to the Springhill estate around 7.00 pm with his friends Charlie Butler and Dermott Flynn to play handball.)

10.54 Just as it was getting dark, Mr McCafferty recalled two older boys in their early 20s calling at the house to tell him that David had been shot. He said that this was not long after they had all left the house together. He was asked if he could be any more precise about this timeframe but said that he would only be guessing. He and his wife were in a terrible state after receiving the news. (In the account given to the HET in 2007, it was suggested that two lads came to the house around 9.00 pm and told his mother that David had been shot in the legs but that he was all right. Mr McCafferty Snr was then stopped on his way home by a Mrs Burns and told what had happened. In that account, the family’s understanding was that David had been shot going to help Fr Fitzpatrick and Patrick Butler, who had just been shot.)

10.55 Mr McCafferty recalled attending the RVH mortuary the next day and identifying David’s body. He stated that, to the best of his knowledge, David was not a member of any paramilitary organisation and explained that he was not raised in a political household. He said that had he known of any involvement, he certainly would not have allowed it.

10.56 Mr McCafferty was asked if the boys who called for David that night had subsequently ever spoken to him to discuss the events of that night, and he said that they had not. He was asked to write down the name of a person whom he believed to now be deceased but who had been involved in a paramilitary organisation. This person had come to his house, told him that David was a member of the Fianna Boys (which he took to be like a boy scout) and said that they would take care of the funeral. A paramilitary funeral then took place. (The name provided by Mr McCafferty did not otherwise feature in the inquest, nor in any of the intelligence material provided to me.) Mr McCafferty was asked about the death notices that were published following David’s death which referred to David as being in the IRA’s junior wing. He did not remember seeing these. His evidence was that he did not know before his son’s death that he may have been involved.

10.57 He was asked about other individuals and various publications including the Springhill Massacre booklet, *Belfast Graves* and *Lost Lives*. He could not remember his wife Nora giving the account set out in the Springhill Massacre booklet but said that he was not saying she did not do so; that he recognised her account “slightly”;

and that, as far as he knew, it was true. That account indicated that Mrs McCafferty's son David "was a member of the Official IRA Junior Wing", who were said to have "ignored the whole incident".

Anne McCafferty (now Begley)

10.58 Anne Begley (*née* McCafferty), the previous witness's daughter, also gave evidence to the inquest on 7 March 2023. On 9 July 1972 she was 22 years old, married, and lived on the Antrim Road, Belfast, with her husband and son. Her parents lived at 23 Ballymurphy Drive, Belfast. Her brother, David, was fifteen years old when he was shot and died. She was his eldest sister. She had given a written statement to the inquest which she adopted.

10.59 Mrs Begley said she believed that her brother David was shot at around 9.00 pm. Her understanding of the death came from accounts given to her from local people who called at her mother's house. She was not able to name any of these people but said they were all women around the age of her mother. She did not have any direct knowledge of the incident herself and only learned of the death the following morning. (Her understanding - which in the present context was pure, unattributed hearsay - was that David was with Patrick Butler, who was a curate at Corpus Christi, and Fr Fitzpatrick. He was showing them to where some of the earlier victims of shooting were lying, close to the bungalows on Westrock Drive, when more shots came from Corry's Yard. The priest and Mr Butler were hit by the same bullet; and David was shot while trying to recover their bodies.)

10.60 Mrs Begley gave some evidence about the effect of the death on the family and about David's interests, temperament and physical appearance. She stated that theirs was not a Republican family. She also said that David often helped the nuns of Mother Teresa's Order, doing small jobs like painting; and that Mother Teresa was very fond of him and called to their house to pay her respects when she heard of his death. Mrs Begley invoked her privilege against self-incrimination on oath in relation to questions around her knowledge about David's membership of Na Fianna Éireann.

10.61 When questioned by Mr Aiken about an element of the pen portrait previously read out in the inquest in relation to her brother, referring to his having been in Springhill visiting his friend Gerry Kelly before deciding to call in to see the nuns before he went home, Mrs Begley indicated that she had never heard that before. She also indicated that she found it difficult to talk about the incident so that, if anyone did talk about it, she simply walked out of the room.

Mary (Betty) Kennedy

10.62 Mary Kennedy gave evidence to the inquest on 10 March 2023. She was also David McCafferty's sister and sometimes known as Betty. On 9 July 1972 she was only seven years old. She had moved to Canada when she was 24. She provided a

pen portrait of her brother and thereafter a personal statement (removing evidential material previously included in the pen portrait which she accepted was hearsay).

10.63 Mrs Kennedy recalled people calling at the door of their house to speak to her mum. They had said that David was with the priest and Mr Butler and had been shot; but they did not know if he was dead or alive. In later questioning, she said her memory was of only one man. In her statement she described this man as having long, curly hair. Her next memory was of David in a coffin in their house and the wake. She said her brother's death was never spoken about again.

10.64 Mrs Kennedy later tried to find out more about the death by reading various books and articles and speaking to others, whose identities she could not remember. She also spoke to a local mural artist, Gerard Kelly, sometime around 2013 to try and find out more information (having been told that he had painted a mural of David and the other victims at the top of Springhill and that he may have a photograph of David). Mr Kelly told her that he had met David that night at Springhill. They chatted and both then decided to go home. David said that he would call into the nuns first; and they then went their separate ways.

Mary Doyle

10.65 Mary Doyle gave evidence to the Inquest on 8 March 2023. On 9 July 1972 she lived at 82 Westrock Drive, Belfast with her husband and three young children. They lived in a grey brick house the orientation of which was facing Corrigan Park with Corry's Yard to the rear. (This house was between the Fosters' at No 84 and the Donnellys' at No 80.) Mrs Doyle adopted her written inquest statement dated 17 February 2023 and a typed record of interview which had been given to KRW Solicitors dated 16 July 1999 (which was largely consistent with her more recent evidence).

10.66 She had spent 9 July 1972 at her mother's house on Ballymurphy Road. At about 8.30 to 9.00 pm she left there with her children to walk home. (She had given the same time in her 1999 account.) About 5-7 minutes later, as she turned into Westrock Drive from Ballymurphy Road, shooting started. She was near Corpus Christi Church at this point and there were bullets hitting off the chapel railings, at the front of the church. The shooting seemed to her to be coming from Corry's Yard, near the Springhill shops. She circled where the shops were on a map which became Exhibit C2. She thought she was a little bit further than the shops and could see along Westrock Drive.

10.67 Mrs Doyle was questioned about where she was exactly when the shooting first started. She said that she could see the top of the shops but not the bottom of them. She thought that her location was a bit further up from where she had marked because she could recall seeing part of the way up Springhill Avenue.

10.68 She was questioned extensively about the type of shooting which she had heard and stated that it was definitely automatic fire, then single shots and the two kept going. She said there was a “burst of fire at first” and after that came single shots, along with rapid fire. She did not see who was firing. She was questioned about where the firing came from and she said it seemed to be coming from her left, from Corry’s Timber Yard. She could not reach her home and froze. She took cover, lying on the ground with the children. She thought this was for about five minutes. Others shouted at her to go back with the children and not to proceed to her home. After a while they crawled back towards Ballymurphy Road and back to her mother’s house. In the record of her KRW interview she said that when she turned to go back, the shooting got really heavy. The shooting in Westrock seemed to continue all night. She recalled ambulances stopping on the Ballymurphy Road “at dusk just as it was starting to get dark” when she had returned to her mother’s house.

10.69 She returned to her own home early the next day to get things for her baby. She saw blood on the doorstep at the front of her house. From the blood trail it looked to her like someone had trailed a body from the window round to the door. Mrs Donnelly told her that David McCafferty, Fr Fitzpatrick and Paddy Butler had been shot just down from her window; and people were trying to bring a wounded person into her (Mrs Doyle’s) house before realising she was not at home. She returned to her mother’s house and stayed there for three days. When she returned home again, she saw bullet holes in the back of her house. She clarified that this was above the brickwork above her bathroom window, towards the very top where the tin was. (It seems to me highly likely that these bullet markings must have come from a further elevated position in the wood shed at Corry’s Yard.) The houses facing her, including the Mills’ house, had bullet holes on them. On 9 July she did not see any gunmen.

Mary Moore (now Smyth)

10.70 Mary Smyth (née Moore) also gave evidence to the inquest on 8 March 2023. On 9 July 1972 she was 19 years old and lived at 78 Westrock Drive, Belfast with her parents, brothers and sisters. She was therefore a neighbour of Kate and Margaret Donnelly. She did not see anyone being shot but saw the bodies of Fr Fitzpatrick, Patrick Butler and David McCafferty afterwards.

10.71 The Moores also lived in a brick house with Corry’s Yard to the rear (although it could not be seen from her house) and the tin bungalows of Westrock to the left. (This witness lived on the other side of the Donnellys’ house from the previous witness, Mary Doyle.) Ms Moore adopted her written witness statement dated 21 February 2023, as well as a typed record of an interview with KRW Solicitors or Madden & Finucane (undated but possibly taken on 2 November 1999) and a handwritten statement dated 20 October 2013 to Ó Muirigh Solicitors. She corrected the suggestion that her brothers and sisters had been evacuated, clarifying that this only occurred *after* the events of 9 July 1972. She also made a correction to

the effect that her references to Anthony Quinn should be references to Anthony Curran.

10.72 About two weeks before 9 July 1972, the day before the IRA ceasefire had been called, her sister had been shot in the leg when she was caught in cross-fire whilst playing on Springfield Avenue. She was unsure if the shot had been fired by the army or the IRA. She was questioned about her reference in her typed statement to how the IRA used to practise shooting at the field. She said that that was what they thought or presumed was happening (although they did not know) and it was in Corrigan Park. In answer to questions from Mr Aiken, she indicated that there were a number of locations where she believed that practice firing was taking place and that this was during the ceasefire. (This appears to corroborate the content of an entry in an army radio log, from 8 July 1972, indicating that information had been received that Corrigan Park was being used as a Provisional IRA range. This was thought to potentially explain shooting heard earlier by the army in the area to the rear of Corpus Christi Church.)

10.73 On 9 July 1972 she was at home with her mother. It was still bright outside, and it was early evening. She could not be more specific on time (although had said in her 2013 statement that it was at about 9.00 pm). She heard noises outside that she initially assumed was from fireworks but then realised it was gunfire. A neighbour, Kate Donnelly, shouted that Fr Fitzpatrick had been shot. She climbed out of her window. Brian O'Kelly and Anthony Curran were on their bellies trying to pull back the bodies of Fr Fitzpatrick and Paddy Butler. She only knew Anthony Curran to see. She knew Brian O'Kelly and believed he lived in the area.

10.74 The bodies of Fr Fitzpatrick and Mr Butler were lying near the Fosters' house. (She had marked a map attached to her statement which showed the bodies further up into the alleyway. She said the bodies were within the alleyway, on the side closer to Nos 82 and 84 than the side closer to Nos 86 and 88, but not out on the concrete path.) Anytime that anyone got close to these bodies, snipers would fire a single shot at them. She could not recall if shots were being fired at anyone else. She saw shots bouncing off Mrs Mills' wall and the bullet landing on the ground. She said not all the shots were single shots and there had been shooting. However, every time Brian O'Kelly tried to get Mr Butler's body there was a single shot fired. Her recollection was that Patrick Butler's body was still where it had fallen when daylight came, which could have been around 4.00 am.

10.75 John O'Donoghue ran from the Norneys' house. She realised there was a third body which was at Mrs Foster's, in the same general area as the others. John O'Donoghue was lifting the third body (David McCafferty) in through Mrs Foster's window, since her front door opened onto the pathway which faced Corry's wall. People were saying that he was still alive. She believed, and it was the general talk, that the person shooting could see the reflection of people moving about in Tilly Mills' window (at 86 Westrock Drive).

10.76 Brian O'Kelly and Anthony Curran managed to drag Fr Fitzpatrick's body into the alleyway and into Mrs Donnelly's house. Ms Moore was in the Donnellys' house when they brought Fr Fitzpatrick in. They could not get to Paddy Butler who was just a bit further out. She saw that Fr Fitzpatrick had one slight mark on his face but did not know if he was alive or dead. She was asked about which other people were in the Donnellys' house but said she could not recollect other individual names. She described it as "pandemonium" and said there were people coming and going. She remembered Mother Teresa nuns arriving at the house at some stage, all dressed in white, who stayed all night at the Donnelly's house until Canon Murphy arrived to take them out. She said another priest arrived and gave confession in the kitchen to anyone who wanted it.

10.77 At one point, the witness had gone back to her own house to see her mother. The Dudleys were there. Their house (No 68) backed onto the Moores' house.

10.78 Ms Moore was asked about the Springhill Massacre pamphlet and a reference to Kate Donnelly saying that someone had lost a gun and they were running about looking for it. She said that she did not see that; and that it did not happen while she was there (adding that, if it happened, it might have been when she was next door at her own house). She was asked about Kate Donnelly's account in the pamphlet about fellows being 'active' that night and getting absolution from the priest in her house. She said that she did not witness that. She was asked about people in Westrock whom she knew to be in the IRA, Cumann na mBan or the Fianna and relied on her privilege against self-incrimination in that regard.

10.79 She was asked about attacks on Corry's Yard in the months prior to July 1972. She recalled some things but not any shooting. She said there was not tension in the area prior to 9 July. She was asked about previously having stated that a car carried David McCafferty down the street and into an ambulance; but she could not recall this occurring, nor having said that. Ms Moore did say, however, that there were cars trying to get people to ambulances. At this remove, she could just remember David McCafferty's body being put through a window.

Brian O'Kelly

10.80 Brian O'Kelly gave evidence to the inquest on 17 April 2024. His evidence was that he was beside Fr Fitzpatrick and Patrick Butler when they were shot; that he saw David McCafferty being shot or the immediate aftermath; and that he then moved Fr Fitzpatrick's body into the Donnellys' house. He had previously given an account in the course of the St Aidan's Inquiry and in what has been described as the 'YouTube video', about which he was also questioned. This video appears to have been created in some way in conjunction with the St Aidan's Inquiry process but, on Mr O'Kelly's evidence, sometime after that. (It was produced in the late 1990s or early 2000s and has been referred to as the YouTube video as that is the platform on which it can now be accessed.) Mr O'Kelly had also been interviewed by the HET on 12 October 2011, accompanied by Fr Des Wilson.

10.81 On 9 July 1972 Mr O’Kelly lived at 12 Springhill Crescent, Belfast with his parents, two brothers and one sister. (Previously, up until 1968, the family had lived in one of the aluminium bungalows, 58 Westrock Drive.) He was fifteen years old at the time and he was completing his ‘O’ levels. He said he was academic and he aspired to become a priest. His siblings had left home. He had provided a witness statement to the inquest (also dated 17 April 2024), which he adopted.

10.82 Mr O’Kelly said that, on 9 July 1972, he had been with a friend, Gabriel Bannon, in the St James’ area of Belfast. Prior to this date things had been calmer throughout Belfast. That evening, people started talking about shooting in Ballymurphy. He was told to get home as soon as possible. He ran up the Whiterock Road into the Whiterock Estate. He was advised to stick to the laneway by Corrigan Park or he would be shot. He remembers hiding at the end of the aluminium bungalows and running in the open space between the rows of bungalows when he could. He heard a lot of shooting that sounded like it was coming from British Army weapons. It was quite staccato and in bursts of gunfire. He thought it was maybe more than one person shooting. Asked about the time of day, Mr O’Kelly said that the sun was shining very strongly, although it was later in the evening. He could not be precise about the time. In his interview with the HET he is recorded as saying that it was still daylight at the time of the shooting.

10.83 At Corrigan Park’s wall he heard bullets ricocheting off the wall and this led him to believe that he was being shot at. He fell down into long grass near Corrigan Park and people near him were concerned that he had been shot. He said he was fuelled with adrenaline and panic. He crawled and then ran to the three-storey houses which faced Corrigan Park, where there were people standing. He said there were “huge” numbers of people there. He wanted to get home and was told to go through the passageways between the three-storey houses and not to walk by the chapel side of the houses in order to get to Springhill Avenue. In later questioning, Mr O’Kelly indicated that his brother Frank, who was married by then, was one of those he encountered there, near 108 Westrock Drive, although he did not live there. Rather, Frank lived with his wife in the greater Ballymurphy area.

10.84 He marked an ‘X’ on a map to show the point from which he could see Fr Fitzpatrick, dressed in full priestly garb, hurrying in his direction and being followed by Patrick Butler. This was when he emerged from a passageway between the blocks of flats into the alleyway, which he described as a paved concrete square, near No 88 Westrock Drive. The ‘X’ was at the end of that passageway, between Nos 88 and 90. He said Fr Fitzpatrick and Mr Butler were coming from the direction of the posts (i.e. from the direction of the church) and were running at speed, with Fr Fitzpatrick trying to make his way to people who had been shot. Mr O’Kelly did not know that people had been shot or where they were. He followed Fr Fitzpatrick, whom he knew (as he was aiming to become a priest himself) and they reached the point marked ‘A’ on his map. In his statement he said that he touched Fr Fitzpatrick’s arm and said, “Don’t go, don’t go”. In oral evidence, he explained that

he was trying to persuade the priest that it was too dangerous; but Fr Fitzpatrick was saying he wanted to get to people to give them the last rites.

10.85 Patrick Butler was at the position marked 'B' on his map, slightly behind Fr Fitzpatrick and to his right. Mr O'Kelly himself was against the wall of No 84 Westrock Drive. He said that Fr Fitzpatrick kept moving around the corner of the building and waving a large white handkerchief, also described later in his evidence as a white rag and/or a white flag. (Mr O'Kelly had also mentioned Fr Fitzpatrick waving a handkerchief in his interview with the HET.) In his statement, he said that Patrick Butler was "doing the same" (i.e. also waving a white hanky) but later said that he had worded that badly, suggesting that Patrick Butler was doing the same by leaning out to look around the corner. Fr Fitzpatrick and Mr Butler were looking over towards where two people were lying on the ground. (It was not clear to me who these people may be, or precisely where; but Mr O'Kelly emphasised his understanding that Fr Fitzpatrick was trying to reach Martin Dudley and Brian Petticrew.) Fr Fitzpatrick put his head out slightly into the laneway (followed by Patrick Butler) and he was shot. Fr Fitzpatrick's legs went forward, he fell back onto Mr O'Kelly, and at the same time Mr Butler fell to the ground. At a later point in his evidence, Mr O'Kelly marked a map again with the position of the bodies. He also described the top half of Fr Fitzpatrick's body spinning round with the force of the bullet to fall against him.

10.86 Mr O'Kelly said there were a lot of people milling around the houses near where he had marked 'X' on the map. Anthony Curran, who had learning needs, was among them. (Mr Curran later moved to England and never returned.) Mr Curran was insistent they had to get the priest. He went out into the laneway to get Fr Fitzpatrick's legs. Mr O'Kelly tried to help him, but he could barely lift Fr Fitzpatrick. Another man came running over from houses to his right to help; and "the shots rang out again, and he fell to the ground". He was not aware this person was shot because he was fixated with Patrick Butler and Fr Fitzpatrick. He did not know this fellow but now knows this to have been David McCafferty. Mr O'Kelly described him as courageous in his evidence.

10.87 The witness was probed further about David McCafferty's movements in later questioning. He said that David McCafferty had come over towards where he was (with the two bodies of Fr Fitzpatrick and Patrick Butler) from the right. He could have come from the same passageway as Mr O'Kelly himself had; or from one of the houses. He understood that David McCafferty was coming to try and help them to recover their bodies. However, he (Mr O'Kelly) was fixated with Fr Fitzpatrick and the first time he actually saw David McCafferty was *after* he had been shot. He did not therefore actually see where David McCafferty came from. He said a range of others ("one hundred people") rushed to them.

10.88 Anthony Curran and he managed to get Fr Fitzpatrick into the Donnellys' house nearby. Meanwhile, he heard others shouting outside that they could not get to the others who had been shot. Fr Fitzpatrick bled profusely from his head and his

blood covered Mr O’Kelly. They worked with Fr Fitzpatrick for about an hour and Mr O’Kelly recalled saying that he was dead. He said that two of Mother Teresa’s nuns seemed to know what they were doing to stop the blood. Their focus was on giving Fr Fitzpatrick some dignity. Mr O’Kelly stayed up with them all night, praying. He recalled Fr Kevin Donnelly coming to the room where he was with the body and he remembered him blessing people but did not recall him giving anyone in the house absolution. Nor did he recall any discussion in the house about someone having lost or asking for a gun.

10.89 He said the shooting seemed to last for hours, and it sounded like “stereo” sound. He remembered an ambulance turning up at some stage but that was about all else that he could remember. As dawn approached, he walked towards home, past Corpus Christi Church and into Springhill Avenue. He thought that he was going to be shot, even though it had gone quiet. When he reached home, his mother pulled his bloodied clothes off him. He said he did not see any civilians shooting or with guns that evening; but the conversation in the community later (for instance, at the People’s Inquiry) was that there had been some kind of exchange.

10.90 When questioned about the Springhill Massacre pamphlet, Mr O’Kelly said that he was not Eyewitness Four; and that he did not know who Eyewitness One could be. It was put to him by counsel that Mr McCabe had been clear that Mr O’Kelly (then provisionally referred to as ‘SC3’) had given the account ascribed to Eyewitness Four. Mr O’Kelly denied this and said that he had never been interviewed by Mr McCabe (although he knew who Mr McCabe was) and that he had not seen the booklet until recently. He was adamant that he played no part in its production and that this was something he would have remembered. He said that he was not a member of the Fianna. He was not in the Sean Doyle Sluagh and had never heard of Sean Doyle. He knew nothing of any of that. He was interned at 17 years of age and said this scarred him for life. He emphasised that he received an apology about this from the HIA Redress Board. (It seemed to me, however, that this correspondence related to his treatment during detention, rather than an acknowledgement that he should not have been interned; and that its significance was considerably overblown by Mr O’Kelly.) He further gave details about his later career in teaching and with the Department of Education.

10.91 Mr O’Kelly was asked by Mr Aiken on behalf of the MoD about his associations. He was still friendly and in contact with Brian Petticrew, even though his family had moved away from being next-door neighbours to the Petticrews. He also knew Martin Mulligan, Robert Russell, Bobby McCrudden and Pat Teer. Mr O’Kelly made the point that he knew several of these people from school, as a neighbour, or from simply having seen them around in the community or community centre. In Mr McCrudden’s case, their shared interest was music. He knew John Dougal’s family. He did not know several others about whom he was asked, such as Michael Sloan, Michael Magee, Jim Bryson, Tommy Tolan or Joe McElkerney; or could not recall, as in the case of Paddy McManus. Mr O’Kelly said

he did not know anybody who was in the Fianna. (I am afraid I found that very hard to believe.)

10.92 He was also asked about differences between his evidence at the inquest and previous evidence that he gave at the St Aidan's Inquiry. In particular, in that account he had described stopping at the McGuinnesses' bungalow (46 Westrock Gardens) and hiding for safety, where there were "dozens of people hiding behind both bungalows" (which I understood to mean Nos 46 and 54 Westrock Drive). There, a number of neighbours said to him that Brian Petticrew, whom he knew well, was shot. From the McGuinnesses' bungalow, he could look over and see where Brian was lying, which was in the middle of "the circle". In this account, Mr O'Kelly also said he remembered looking into the circle where he could see Martin Dudley (whom he also knew) and people trying to get to him. However, he later said that he could not have identified either of them without others present saying who it was lying shot, on the basis of his poor eyesight.

10.93 In the earlier account Mr O'Kelly then described rolling and falling over on the way to the Campbells' bungalow (No 54) where people were screaming that they were trying to get a hole cut in the wall. His account at St Aidan's suggests that he went *into* the Campbells' bungalow and saw a lot of adults there before coming out to allow them to get on with the hole-cutting and hiding again behind the bungalow. In his oral evidence in the inquest, he said that he did *not* go into this bungalow. When hiding behind it, his brother was there and calling to him to stay safe. He rushed across to the houses at the edge of Springhill, where his brother grabbed him and dragged him round the corner wall.

10.94 In this earlier account, Mr O'Kelly's brother accompanied him to where he saw Fr Fitzpatrick and Mr Butler, and Fr Fitzpatrick spoke to both him and his brother. He also mentioned Mr O'Donoghue being there. He was questioned about the absence of reference in his evidence to the inquest to his brother's presence that night and/or the locations of Messrs Dudley and Petticrew at or about the turning circle. He stated that he was present when Fr Fitzpatrick had gone to give the last rites to two people who he thought were approaching death, when Fr Fitzpatrick and Mr Butler were shot. He understood that Fr Fitzpatrick was going to give the last rites to Brian Petticrew and Martin Dudley. He was not sure if the bullet that killed Fr Fitzpatrick and Mr Butler also killed David McCafferty. He was sure about the exact locations of the three bodies on his map, which became Exhibit C5. He said the bodies were lying very close together.

10.95 It was put to Mr O'Kelly that he met his brother at Kate Campbell's bungalow. My understanding of his evidence is that he saw his brother Frank whilst *he* was there but that his brother was actually at the location close to No 108 Westrock Drive. The earlier St Aidan's account noted that Fr Fitzpatrick had spoken to him and his brother. When questioned about whether his brother was present when Fr Fitzpatrick was shot, Mr O'Kelly said he was milling around with the crowd in the area. He now had no recollection of his brother being there when he

spoke to Fr Fitzpatrick; but he *may* have been in the crowd to his right or have followed on. Ultimately, he accepted that his earlier account, closer in time to the events, was “probably more accurate”.

10.96 It was raised with Mr O’Kelly in questions from Mr Mansfield that Fr Fitzpatrick was dressed unmistakably as a priest “with a long gown and a white collar”. Mr O’Kelly clarified that what *he* had meant by his reference to full priestly garb was “the black clerical suit”, although he also referred to a “black clerical overcoat”, which was open, and “the big Roman collar”. In that questioning, Mr O’Kelly returned to the issue of the handkerchief which Fr Fitzpatrick was waving, which he described as “huge”. (He was asked whether he was familiar with the shooting of Fr Mullan in Ballymurphy who was waving a white cloth; and he confirmed that he knew Fr Mullan also.) The shots he heard came directly after the white handkerchief preceded Fr Fitzpatrick entering the laneway. He described Fr Fitzpatrick leaning round the corner of No 84, head and shoulders, waving the handkerchief with Mr Butler doing the same, as there was a slight lull in the shooting at that point.

10.97 Brian O’Kelly is potentially a highly significant witness in that he gives witness testimony of each of the three deceased being dealt with in incident 2 actually being shot. He became extremely emotional during the course of his evidence, particularly when describing the point at which Fr Fitzpatrick and Patrick Butler fell to the ground. He presented as somewhat pompous at times in the course of his evidence and was, at points, both combative and dismissive in response to questioning from MoD counsel, particularly where potential inconsistencies in his accounts were drawn to his attention.

10.98 There were details in his account given to the St Aidan’s Inquiry which were not included in his statement or oral evidence to this inquest. By way of further example, at the St Aidan’s Inquiry Mr O’Kelly indicated that, when Fr Fitzpatrick and Mr Butler were shot, he “felt the bullet passing through my hair”. He did not mention his own brother or Mr O’Donoghue in his more recent evidence, before being questioned by MoD counsel about these matters arising from his previous account at St Aidan’s. Nor did he devote any significant attention to the pause in his route home behind the McGuinness or Campbell bungalows. Nonetheless, there was a significant degree of consistency between the two accounts and, indeed, the account in the YouTube video. Several of the later-omitted details were not, in my view, necessarily inconsistent with his more recent account but were indicative of his either having forgotten some detail with the passage of time or, perhaps more likely, having omitted them for some reason. This might be because he had embellished an earlier account unnecessarily (for instance, the reference to feeling the bullet pass through his hair or having gone into Kate Campbell’s bungalow) or because there were details he preferred to omit for other reasons (which is really what MoD counsel was suggesting to him).

10.99 My own assessment was that it is likely that, given the less forensic and more community-based approach of the St Aidan's event, Mr O'Kelly may have gilded his account somewhat at that time in order to promote his own significance or importance in the scheme of things. It seemed unlikely to me, for instance, that he would have gone into the Campbells' bungalow given the fearful journey home he was describing. It is also unlikely to be correct that he saw Brian Petticrew lying at the turning circle, since other evidence suggests that Brian Petticrew did not fall or lie there. This also appears to me to be inconsistent with the suggestion that a hole was being cut in the Campbells' bungalow wall at the time Mr O'Kelly was at that location (which, on other accounts, happened later in the evening and sometime after Brian Petticrew was back in his own home). I felt he may be prone to exaggeration at points.

10.100 In all, however, I did not consider that any inconsistencies undermined the basic credibility of Mr O'Kelly's account, which has remained broadly consistent throughout. The basic elements of his account – the route he took and why, his sighting of Fr Fitzpatrick and Patrick Butler, the account of their shooting, and his attempts to retrieve the priest's body along with Anthony Curran – have remained constant, including in his interview with the HET also. In particular, his recall of the actual shooting of Fr Fitzpatrick and Mr Butler appeared vivid. For what it is worth, the HET officers recorded their view that Mr O'Kelly "appeared genuine and willing to assist". I believe that, in this inquest, he pared back his evidence to omit embellishments which he may have been prepared to add at the St Aidan's event. His evidence on his core involvement at the time of Fr Fitzpatrick's death was corroborated to some degree by Kate Donnelly, who described him carrying Fr Fitzpatrick into her house and remaining with him for a time as if in shock, and also by Mary Moore (Smyth), the evidence of each of whom I found credible on this point. (He was also placed at the scene, directly beside Fr Fitzpatrick, by Robert Russell, although I am much more cautious about reliance on some of his evidence.) Some more peripheral elements of Mr O'Kelly's account should, perhaps, be treated with caution in light of the discussion above.

10.101 I found Mr O'Kelly's denial of participation in the Springhill Massacre booklet credible and compelling. I do not think he was Eyewitness One (who, for reasons already given, I believe to have been Liam Stone); nor Eyewitness Four, who was more related to the events considered in incident 3.

10.102 He also denied the content of intelligence reporting from March and April 1972 that he was a volunteer and later officer in the Sean Doyle Sluagh of the PIRA Fianna. It is more difficult to know what to make of this. (Brian Petticrew also denied Mr O'Kelly's involvement in the Fianna but I place little weight on that since he essentially denied the involvement of anyone other than himself and John Dougal, who had also made an admission; including a number of people I consider were clearly, or very likely to be, involved in the Fianna or the IRA.) Mr O'Kelly was very friendly with Brian Petticrew and continued to be so at the time of his giving evidence. I did not believe his evidence to the effect that he knew no one in the

Fianna or anything about it in his youth. He was very indignant when answering questions on these matters and, at a number of points, appeared to deflect from giving a straight answer to the questions. He did, however, clearly deny involvement in the Fianna. As already noted, he placed significant reliance on a letter from the HIA Redress Board which I did not consider to support the point he was making, namely that there had been some recognition that he should have been interned in the early 1970s. I formed the view that he had moved on with his life after internment and worked hard to succeed in his chosen field of education such that he very much wanted to distance himself from any possible misdemeanours in his youth. (Intelligence reporting in relation to him appears to have ended after his detention.) He was clearly close at the time to a number of people who were significantly involved in unlawful associations, such as members of the Petticrew family and Bobby McCrudden.

10.103 I also noted with interest that, in the notes of Tommy Ramsey's interview with the HET, there is some reference to Mr O'Kelly. His name appears (with an asterisk beside it, potentially indicating a matter which the officers thought was of some importance), along with a reference to his being a Vice Principal in Portadown. The notes also say "leave out 'O'", suggesting that Mr O'Kelly was previously known simply as Brian Kelly. This was supported by a comment in Mr O'Kelly's own evidence to the effect that he had changed his name to O'Kelly after his internment in order to make a break from the past and move on. Perhaps more importantly, the notes from Mr Ramsey's HET interview beside Mr O'Kelly's name also record "witness in book" and "Eyewitness account". This appears to suggest that Mr Ramsey - who expressed some familiarity with the production of the pamphlet and Tony McCabe working out of Fr Des Wilson's house - thought that Mr O'Kelly was one of the anonymous eyewitnesses in the pamphlet. I do not believe that he was; but it may be significant that Mr Ramsey thought that likely or possible. Interestingly, when contacted by the HET in 2011 in relation to the St Aidan's Inquiry, Fr Des Wilson suggested that one of the persons who was "enlightening" at that meeting was Mr O'Kelly and he recommended that the police speak to him (to be contacted through either Tony McCabe or Thomas Ramsey).

John O'Donoghue

10.104 John O'Donoghue - mentioned by the previous witness discussed - gave evidence to the inquest on 18 and 25 April 2024. On 9 July 1972 he lived at 58 Glenalina Road, Ballymurphy with his mother, stepfather, three brothers and one sister. He was 19 years old and unemployed (although he had previously worked in the sawmill at Corry's Yard). He adopted his written statement to the inquest dated 5 January 2023 and said everything in it was very vivid in his mind. He had also previously given an account at the St Aidan's Inquiry.

10.105 On 9 July he was with his girlfriend (Jean McLaughlin, whom he married a few months later) babysitting for her sister (Margaret Norney) in Westrock Drive. In his statement he said this was either at No 78 or No 80, although in oral evidence he

said it was either 68 or 67, in the alleyways in the Springhill houses. He was quite prepared to accept that it may have been at No 92 (where other evidence suggested Margaret Norney lived) and that he may have been mistaken in relation to the address. In giving his oral evidence, he was challenged about whether he was in fact babysitting that evening but was adamant that he was. He said he and his girlfriend were to stay over that night.

10.106 Mr O'Donoghue described walking from Ballymurphy to Margaret's house via Springhill Avenue and Westrock Drive, arriving at around 6.30 pm, while kids were still out playing in the streets. He did not notice any trouble on the way there, and it was a lovely evening. Car horns had been sounding in Ballymurphy and Whiterock following the breakdown of the IRA ceasefire. When he arrived it was just himself, Jean and Margaret at the house (except for the children) before Margaret went out around 7.00 pm to join her husband who had gone to the club. He said that he knew John Fusco but that Mr Fusco was not there; and he could not recollect seeing Mr Fusco there at any stage of the evening. He could not remember.

10.107 At some stage in Margaret's house, he thought around 7.30 pm and no later than 7.45 pm, he heard shooting. It was four or five really loud cracks in quick succession. The kids came running into the house and were screaming. He and Jean had been watching television at the time. Mr O'Donoghue said he found out that someone had been shot further down Westrock Drive, who he now knew was Margaret Gargan. (He did not know that at the time, but said that he heard it later as word filtered through, around 5-10 minutes after the shooting started, that someone had been shot in the bungalow area of Westrock Drive, and heard later that night that it was Margaret Gargan.) A neighbour said there was shooting coming from Corry's Timber Yard. He was walking to get a view of Corry's when he spoke to Brian Muckian who lived at 66 or 68 Westrock Drive. Mr Muckian thought it was the UDA or UVF who were doing the shooting, which continued intermittently when he was outside, and seemed to be in the Westrock Drive area.

10.108 At the end of the row there were about three or four people gathered, including himself and Paddy Butler (who was the only one he knew). Mr O'Donoghue said that Paddy Butler lived opposite Margaret Norney. In his oral evidence, Mr O'Donoghue described being in the paved area (the alleyway) near No 86 or 88 Westrock Drive (although his description of how he got there, turning left and left again after leaving Margaret Norney's, may have suggested a different location, between Nos 86 and 108). He saw Paddy Butler there first and Mr Butler subsequently went to get a priest.

10.109 Mr O'Donoghue saw a young lad at the gable end of the bungalows opposite. People were shouting at him not to move. He later knew this lad to be David McCafferty, although he would not have known him at the time. He only learned the name David McCafferty a day or two after. Within a matter of minutes, the lad tried to move towards John O'Donoghue's group of three or four people, when shots rang out and he fell. He had only moved a couple of feet from the gable end of the

bungalow before he fell. Mr O'Donoghue had a clear view of the lad at this time, in daylight, but did not actually see him being shot. He believed the gable end wall was at 54 Westrock Drive (Kate Campbell's bungalow), which Mr O'Donoghue had said he believed was the home of the Tutons. He said that David had been running in the direction of Westrock Drive. He was asked if in fact he had only seen David when he was already on the ground and he appeared to agree with that. He was sure that David McCafferty was shot *before* Paddy Butler and Fr Fitzpatrick were shot.

10.110 Paddy Butler ran up the alleyway between No 106 and No 108, to Corpus Christi Church to get a priest. He returned with Fr Fitzpatrick (dressed in black and wearing his cassock) within a matter of minutes. They went to the corner of No 86. David McCafferty was less than 30 yards away lying in the back garden of the bungalow and was not moving or responding to his shouts. Fr Fitzpatrick put his head around the corner to go towards David, but more shots rang out, and Fr Fitzpatrick also fell, forward and to the side, with his feet towards Mr O'Donoghue, lying at an angle. There was no movement from him.

10.111 At the same time Paddy Butler fell backwards into the alleyway. He was lying right beside Mr O'Donoghue. There was blood on his face, and he was shaking but only for a few seconds. He said the bodies were half in and half out of the alleyway, with Mr Butler more in and the priest slightly out. (This abraded with other evidence I heard which suggested that it was more difficult to retrieve Patrick Butler's body, which remained lying on the ground for longer.) Another male, whom he did not know, attempted to pull the priest into the alleyway by his feet. It was obvious that Fr Fitzpatrick was dead, and Paddy Butler also appeared to be dead. There was not a lot that could be done for them. In his oral evidence, Mr O'Donoghue recounted assisting with the body of David McCafferty, although this was not addressed in his witness statement to the inquest. He said other persons brought David McCafferty's body into the alleyway and he then assisted in carrying the body to Brian Muckian's house. They took him up the alleyway and he was put through the window because the windows were open.

10.112 Mr O'Donoghue said he could then hear ambulances arriving and someone shouting "Duds is shot", which he now knows was a reference to Martin Dudley. As he then walked towards the chapel, he saw a youth (whom he believes to be Martin Dudley) being placed into an ambulance. He saw that the injuries to the back of his head were so severe that you could practically look inside his skull. He went back to the Norneys' to check on Jean and the children. He then went back out and lifted David McCafferty to Brian Muckian's house at that stage, through an open window, and saw that David had a massive hole in his back where he was shot. He was obviously dead.

10.113 Mr O'Donoghue said the shooting continued for a few hours until it was dark. At no time did he see shooting from gunmen, paramilitaries or anyone shooting at Corry's. All the shooting came from that direction. He said that, later

on, the shooting became more frequent and he now believes that this was when the IRA came into the area; but he did not see that as he was in the house. He believed the IRA had come in as the gunfire he heard then was completely different from the previous hour or so. He did not see any IRA in the area when he had been out on the street. He was still of the impression that it was the UDA or UVF which had been shooting. It was only later, when the army came into the estate as it was getting dark, that he thought the army had been shooting from Corry's Yard. He then believed the Parachute Regiment was responsible.

10.114 Mr O'Donoghue was referred to the portions of the transcript of the YouTube video which were attributed to Brian O'Kelly. He thought this account was very similar to his own and must have been the account of the other male that was in the alleyway with him. He described that male as small and with dark hair. He thought this was Brian O'Kelly, who he believed was later a local schoolteacher. However, he did not know this person's identity at the time.

10.115 Mr O'Donoghue answered various questions about his purported illegal activities. (There was intelligence information ruled deployable from January 1972 indicating that he was the adjutant of B Company of the PIRA; and another intelligence document from the same time suggesting that he was a 'crack shot' in the PIRA and, along with another person, a sniper in that company. Earlier intelligence documents, from December 1971, suggested that he held a number of roles in B Company staff, with one suggesting he was quartermaster and had been moving weapons. Later documents, from mid-1972, suggested continued involvement.) Mr O'Donoghue denied being a member of any unlawful organisation. He denied intelligence information suggesting that he admitted being in the PIRA and armed. He said he was not involved, never admitted being involved, and believed that the RUC had fabricated that allegation against him. He denied shooting at soldiers that evening. He denied that he was the adjutant of the IRA's B Company in Ballymurphy. He was asked about his knowledge of Tommy Tolan, James Bryson, John Petticrew and stated that he did not know them.

10.116 Mr O'Donoghue was also asked about inconsistencies between his evidence in the inquest and the account he had given at the St Aidan's Inquiry, during which he was asked a number of questions by Don Mullan (a journalist assisting with the evidence-gathering at that event). The account in St Aidan's was materially different from that given by Mr O'Donoghue to the inquest. He simply said he was visiting his friend, rather than indicating that he was babysitting with his girlfriend. He said the initial reports were that "Pat or somebody" was shot and that Patrick Butler went to get a priest "to anoint Pat". He mentioned "a real gun-battle" before correcting himself to say he "thought" it was a gun battle but the shooting "was only coming from one place".

10.117 In his St Aidan's account, the witness had then described standing near Fr Fitzpatrick who was shot when he put his head out, and the same bullet then striking Paddy Butler in his right eye. He said he was standing right beside them

and Patrick Butler nearly fell on him. On this account David McCafferty was shot *after* Fr Fitzpatrick and Mr Butler. Having been told not to go near Mr Butler's body, David McCafferty was shot and Mr O'Donoghue pulled him in and took him to someone's house and put the body through the window. He did recount seeing Martin Dudley being put into an ambulance. In questioning from Mr Mansfield he thought the traumatising effects of the events may explain some of the differences between his accounts.

10.118 When asked about this earlier account in his oral evidence, Mr O'Donoghue felt the reference to Pat "must have been mistaken" and that the priest had been going to anoint David McCafferty instead. The name "Pat" which he had mentioned did not mean anything to him; he thought someone may have simply mentioned the name and he took it that that was correct. On the question of whether David McCafferty was shot before Fr Fitzpatrick, Mr O'Donoghue did not think he could be wrong on that. He said his account to the St Aidan's Inquiry was wrong and it was very vivid in his memory.

10.119 There are clearly inconsistencies between the account given by Mr O'Donoghue and that of Brian O'Kelly (amongst others), each of whom puts the other at the scene. Mr O'Kelly described the shooting of Fr Fitzpatrick and Patrick Butler and *then* the shooting of David McCafferty. On Mr O'Donoghue's account in his evidence before me, David McCafferty was shot *before* those two others; and, indeed, before Patrick Butler went to fetch a priest. I return to this issue below.

10.120 There are other elements of Mr O'Donoghue's account which I found to be strange and/or lacking in credibility. For instance, he said that Fr Fitzpatrick was wearing his cassock (a full-length vestment or robe). No other witness who saw Fr Fitzpatrick before or after his death gave this description; and I consider that, had Fr Fitzpatrick been wearing any kind of robe, this would have been memorable. (See the discussion above in relation to Mr O'Kelly's evidence on this.) His reference in his St Aidan's account to "Pat" having been shot - obviously not referring to Patrick Butler who was then said to go and fetch a priest - and his explanation for how this came about seemed to me to be bizarre and to display, at the very least, a relatively cavalier attitude to the gathering of evidence in that process. One possibility is that this could have been a mistaken reference to Patrick Teer. He is the friend of John Dougal's who Mary Dougal said her brother John had been with earlier in the afternoon. It is possible that Mr O'Donoghue knew, or believed, that Patrick Teer was also in the Westrock Drive area at the relevant time.

10.121 Some of the references to addresses and house numbers provided by Mr O'Donoghue additionally appeared to me to be mistaken or confused. For instance, he had an incorrect address for where Margaret Norney lived and where Brian Muckian lived (at the other side of the Springhill flats); and wrongly said that Patrick Butler lived opposite Margaret Norney (whether on the basis either of her actual address or the one he gave for her). He wrongly thought that Kate Campbell's bungalow belonged to the Tutons. When this was raised with him in evidence, he

was quite prepared to accept the correction and said that he had got the bungalows “the wrong way round” and was not familiar with the area. Indeed, my own impression was that some of the descriptions he had used may have been explicable on the basis that he had been looking at a map the wrong way up at some point. At other points, I considered he may have mistaken the passageway between back gardens (for instance, between Nos 86 and 108) as being the larger alleyway between blocks of flats (for instance, between Nos 84 and 86). He also described taking cover with Fr Fitzpatrick at No 86 Westrock Drive, which would in fact have left them more exposed to shooting from Corry’s Yard. His description of the cover afforded by the wall there, and Fr Fitzpatrick putting his head around the corner, did not accord with the real position on the ground and was more consistent with sheltering beside No 84 (as outlined by other witnesses in the inquest).

10.122 In consequence, I would not be inclined to place much weight on the geographical aspects of Mr O’Donoghue’s evidence which were clearly unreliable in parts. His reference to “Pat” having been shot in the account he gave at St Aidan’s, and his later explanation for this, could indicate that Mr O’Donoghue was somewhat suggestible and prepared to adopt as his own version unconfirmed details which he had picked up from others. An alternative explanation, which I felt was more likely, is that he provided truthful evidence at St Aidan’s from which he was now trying to resile and/or that he was not being candid in his evidence in relation to all he knew about the events of the evening. The clear inconsistency between his current account and that in the St Aidan’s Inquiry on the fundamental issue of whether David McCafferty’s shooting preceded or followed that of Fr Fitzpatrick and Patrick Butler was extremely concerning in terms of his reliability.

10.123 Other elements of Mr O’Donoghue’s evidence accorded with those of other witnesses and potentially ring true, such as his descriptions of some of the injuries to the deceased or injured and his account of Fr Fitzpatrick and Patrick Butler being shot at the same time. I accept that he was present at the time when Fr Fitzpatrick and Mr Butler were shot and that he had some role in retrieving David McCafferty’s body. I consider it unlikely, however, that he is correct in his recollection of David McCafferty’s body being conveyed into Brian Muckian’s house. (Other evidence contradicts this and suggests David McCafferty’s body was placed in the Fosters’ house through the window.) His evidence in terms of being present and/or helping to retrieve David McCafferty’s body is nonetheless corroborated by others, including Mary Moore, who said that she saw him coming from the Norneys’ house and helping with David McCafferty’s body, and Brian O’Kelly who also placed him at the scene. (John Fusco – whose evidence is addressed next – also placed him at the scene and recounts a conversation, at that time, when John O’Donoghue told him about just helping to recover David McCafferty’s body. There is, however, at least one major potential inconsistency between their evidence.)

10.124 For the reasons summarised above, however, I feel that I should treat many aspects of Mr O’Donoghue’s account with considerable caution. All of that is the

case whether or not I should also read a more sinister aspect into his presence there, which is discussed in further detail below.

John Fusco

10.125 John Fusco gave evidence on 16 April 2024. He had provided a written statement to the inquest dated 10 January 2023, which he adopted. He had not previously provided a statement and was not involved with the meeting at St Aidan's School.

10.126 On 9 July 1972 Mr Fusco was 18 years old and said he was of no fixed abode, living a transient lifestyle. His mother had moved to Dublin around January 1972. Prior to that he had lived in her house in Glenalina Park, Ballymurphy. He said that he was staying mostly between the house of his cousin (Margaret Norney), with whom he stayed very often, and his sister's house off Shaws Road, as well as with a number of other relatives in and around West Belfast. His evidence was that, on 9 July, he was in Margaret Norney's house at 92 Westrock Drive, where she lived with her husband James.

10.127 Mr Fusco said he could not be certain if he had been staying there overnight from the previous day but he believed he remained there all afternoon and into the evening of 9 July. You could not see Corry's Yard from the window of the house due to its position; but you could see the yard if you walked to the end of the alleyway. Mr Fusco said he was unsure exactly what he was doing that day but believed he did not leave Margaret's house, even though it was a bright summer's day. At some stage he heard shots ring out. It was still daylight when this first occurred; but he was unsure of the time. In oral evidence he said it was late afternoon. He did not now recall how much shooting there was but remembered being in the house when he heard the shots. He said the area had been quiet before then as there was an IRA ceasefire.

10.128 Mr Fusco said he then remembered being surrounded by the neighbours who had come in, talking about what was happening. This occurred not long after the shooting started. When asked if he knew them, he said a lot of them were women and, later, that he did not know any of them but just knew that they were neighbours. He could not recall the detail but said the neighbours recounted that people had been shot in a car along Westrock Drive and that somebody was lying shot in a garden near a bungalow. Mr Fusco did not see any of this himself and did not go out of the house because the shooting was still continuing. He said he assumed people came into the Norneys' house because they were neighbours and they wanted to get away from the shooting. He only knew one face, a man called Jim who was a good bit older than him, a married man who was a neighbour who lived behind Margaret. (He clarified that this was *not* Jim Bryson.) He said people were continually in and out of the house over a period of time and sometimes the living room was crowded with neighbours.

10.129 Mr Fusco said he was in the living room and someone said, "There's a priest going now". He looked out the window and saw the priest, dressed in black with his collar on, with another adult male in ordinary clothing. He now believes this was a local man and neighbour of the Norneys, Mr Butler. They hurried along the pathway to the last house on the block, No 84. When the priest got to the corner, he appeared to be looking left in the direction of Corry's Yard. He stepped out a short distance and waved his right arm, although Mr Fusco could not see if he had anything in his hand. Mr Butler was standing directly behind the priest. The priest then stepped a second time and waved again. On the third time he stepped out, both he and Mr Butler "just crumpled to the ground" and at almost the same time he heard a shot ring out. Mr Fusco could not now remember if there were other persons in the vicinity or on (what he called) the pathway. He just remembered the two men falling to the ground. In later evidence he confirmed that he did not remember a third person but said there might have been. He just fixated on Mr Butler and the priest.

10.130 The witness observed this through the Norneys' living room window which he said was about 30 yards away from the corner where the priest and Mr Butler were standing. His eyesight was good at the time and he had a clear view of the two men. He said it was "still broad daylight" when this happened. He could not see who had fired any of the shots and only had the neighbours' account that it was the army which was shooting. However, he said that the shot which rang out when the priest and Mr Butler fell sounded exactly the same as the other shots he had heard before this. He certainly could not see any gunmen or paramilitaries in the area from his position in the living room of the Norneys' house.

10.131 When darkness fell, Mr Fusco went out to one of the neighbour's houses almost directly opposite Margaret's house, possibly No 80. As he walked over he noticed there was a massive pool of blood where the bodies had been lying at the corner and, when he looked into the living room of this house, he saw three bodies covered in sheets. (The number of bodies cannot be correct in my view. However, there is some correlation otherwise with the evidence of Mary Moore who said that Fr Fitzpatrick was covered in a sheet and that she and Kate Donnelly said prayers to him, with nuns arising at some stage.) Mr Fusco described this as three white sheets on the ground covering bodies, with nuns kneeling around and saying prayers. Asked about this further, he said that he had a clear memory that there were three bodies. He believed the third body was that of a teenager who had been shot when he tried to pull the priest back into the pathway; but he did not see this happen. He said he recalled a local man about a year older than him, John O'Donoghue, coming into the house and telling him that he (Mr O'Donoghue) had lifted the teenager's body and his hand had gone right through his back. He said he did not know Mr O'Donoghue at that time but that he was going out with Margaret's sister, Jean.

10.132 In a map attached to Mr Fusco's statement he marked the position of the house he was in, the position of the priest's body, the position of Mr Butler's body, and the house to which the bodies of the deceased were taken. The positions of the

bodies indicated Fr Fitzpatrick having fallen right at the corner of 84 Westrock Drive, with Mr Butler's body slightly behind and to the right if one was looking out of the alleyway between the two blocks of flats.

10.133 Mr Fusco denied having any involvement with an unlawful organisation at the time of the events. When intelligence material was put to him which suggested that, in September 1972, he may have been a member of the Michael Kane Sluagh he exercised his privilege against self-incrimination and declined to answer the question. When other intelligence material was put to him he denied that he was on the run in 1973 and said it was not true that he had been a sniper in November 1973. Mr Fusco said he did not see a gunman that night or anything like that. This was in response to questions about the ciphered statement of Soldier E and the suggestion (from Soldier A) that there was a gunman on the grass area in front of No 92 Westrock Drive. He added that there was no grass area there but that it went straight into pavement.

10.134 Mr Fusco was questioned in detail by MoD counsel in relation to his connections to the area and others who lived there or were at or near the scene of the events. He denied ever having heard of Michael Kane or Sean Doyle. He said he did not know Robert Russell in 1972; and did not ever know John Dougal or David McCafferty. He knew Paddy Teer in 1973 when he was interned with him, but not in 1972. He could not remember the basis upon which he himself had been interned but said it was just on the basis of accusations. He further denied knowing John or Brian Petticrew, Bobby McCrudden, Martin Dudley, Gerard Kelly or Joe McElkerney. He said he knew Michael Clarke after he died: he was a member of the IRA who died in an explosion. When asked if he knew Jim Bryson, Mr Fusco said that he was a well-known IRA figure in Ballymurphy who, on the day the shootings took place in Springhill, was up in Lenadoon having a gun battle with the British Army. He said this was well-known after the fact by everyone who lived in the area through word-of-mouth. He also indicated he did not know Tommy Tolan at the time but knew him as another IRA volunteer after he was shot dead.

10.135 When asked again about intelligence material relating to him, Mr Fusco denied knowing John Dougal; being in the same group as him; or having knowledge of the suggestion that John Dougal was "killed in action". He denied having acted as a look-out, receiving weapons training or having been in the Fianna or the IRA.

10.136 Mr Fusco accepted that he did not see the shot which killed Fr Fitzpatrick and Mr Butler but just saw them falling to the ground when the shot was fired. He said that there was talk about the events of 9 July in the area afterwards and that everyone in the area was involved in this type of conversations. On questioning by Mr Aiken, Mr Fusco said that, having seen Fr Fitzpatrick and Mr Butler fall, he looked out next when there was another scream and the young fellow who had gone to drag the priest away was shot, although Mr Fusco did not himself see this. When asked how he knew that this young fellow had gone to get the priest he said that people there (in the living room of the Norneys' house) said so.

10.137 I was concerned about some aspects of Mr Fusco's evidence. For instance, it seems strange that he did not previously mention the shooting of David McCafferty until towards the very end of his questioning by MoD counsel, rather than having mentioned it in either his statement or evidence-in-chief. I also had a concern from a number of things he said that parts of his narrative may have been matters which he did not himself see but picked up from others and then presented as his own recollection.

10.138 There is a very curious issue relating to Mr Fusco's evidence, namely whether he was in the Norneys' house as he stated and/or whether Mr O'Donoghue was there as he stated. Mr Fusco's evidence was that he was there all day and into the evening, that he watched matters unfold from the living room, and then only left the house much later that evening. John O'Donoghue, whose evidence was that he was in the house for the purpose of babysitting (and came back to check on his girlfriend after having left), did not purport to see Mr Fusco at all at any point. To say the very least, their accounts do not sit easily with each other. It may not necessarily be the case that one must be wrong if, for instance, Mr Fusco only came into the living room during the period when Mr O'Donoghue had left the house (after the shooting had started) or around the time when other neighbours were assembling and Mr O'Donoghue simply assumed that he was another neighbour. However, I have considerable unease about what appears to be a conflict of evidence as to whether or not Mr Fusco or Mr O'Donoghue were each in the house they suggest. My assessment of their evidence is that, if each account was true, it is highly likely that they would have been aware of each other's presence in the home and that this would be acknowledged rather than (on Mr O'Donoghue's account) there having been no meeting between them at all or (on Mr Fusco's account) there have been only a fleeting conversation later in the evening.

10.139 I consider it likely that Mr Fusco's evidence of seeing three bodies in the house at 80 Westrock Drive later that night is wrong, in light of other evidence suggesting that all three bodies were not taken to the Donnellys' house.

Gerard Kelly

10.140 Gerard Kelly gave evidence on 26 April 2024. Shortly before this he had given a written statement dated 23 April 2024. He was the person identified by Betty Kennedy as having been with David McCafferty earlier in the evening of 9 July 1972 and to whom she spoke in more recent years to try to get some further information about her brother's death.

10.141 Mr Kelly said that, in July 1972, he was 15 years old and lived at 103 Springhill Avenue with his mother and nine siblings. He had just left school and was about to start work as an apprentice plant-fitting engineer. He said that there had been regular shootings in the area for about three years from 1969; and he could recall numerous incidents over the years involving Corry's Yard, like kids trying to

knock the walls down and so on. This was mostly stone-throwing but he also referred to more serious incidents. He described Springhill, Ballymurphy and Westrock as “the epicentre” of the Troubles. He also said that, as a result of hearing gunfire on a regular basis, he (and all the kids from the area) were able to tell the difference between the noises different guns made.

10.142 Mr Kelly said that he did witness relevant events of 9 July 1972. He had not given any previous account to anyone about these but had dedicated a chapter in his book, ‘Painting My Community’, published in 2018, to the incident. He said that there were some inaccuracies in the account included in the book, noting that he did not believe now (as suggested in the book) that it was the Parachute Regiment which was responsible for the shooting. However, in his statement he indicated that he stood over this account and, aside from a few details, it accurately reflected his recollection.

10.143 Mr Kelly denied that he was one of the boys mentioned by Mr McCafferty Snr who had called for David at his house that night. (He also said he was not one of those who called to the McCafferty house later to advise David’s parents that he had been shot.) The first Mr Kelly saw David was near the shops on Springhill Avenue and he was on his own. When he was about halfway up Springhill Avenue, just before he met David McCafferty, he heard bursts of gunfire. In his oral evidence he said this was 3-4 single shots in rapid succession rather than automatic fire. He did not believe there was any gunfire in return. The gun made a vicious crack sound and he now believed this to have been a sniper rifle. In his statement he said that he had a sense that the shooting was happening “on the ground” and that “somebody was shooting at the Brits, or the Brits were shooting at someone else” but he did not sense that the shooting was coming from up high. (In his book he had commented that, at that time, there had been several British Army killings of civilians in the local area; or maybe the IRA were attacking the British.)

10.144 Mr Kelly indicated on a map appended to his statement a point marked ‘X3’ where he met David McCafferty on Springhill Avenue; and had drawn a line indicating the route which they took to the position marked ‘X4’ which was the Fosters’ house. (This was down through the Springhill flats and down the passageway between Nos 70 and 68.) David McCafferty believed someone had been shot and they wanted to see if they could help.

10.145 Mr Kelly’s evidence was that the night when this happened was a bright, dry summer’s night. It was about 9.00 pm when the shooting first started. That was a rough time which he just estimated by the nature of the light, as he did not have a watch then. He accepted it might have happened a little later.

10.146 Mr Kelly said that David and he had then met his younger brother, Sammy, at Westrock Drive, who came with them to see what was happening. He was standing on his own when they met him; Mr Kelly did not know exactly why he was there. They bolted across Westrock Drive to the houses on the south side of the road

and did not see any cars on Westrock Drive. He did not remember seeing or hearing any cars in the area that night. He commented that there were not many cars in their area in 1972. In later questioning, however, he said that when they bolted across Westrock Drive they did not look up the street.

10.147 When they got to the position marked 'X4', there were five or six people at that location (including their group), one of whom he could recall being Harry Flynn whom he described as a local man. He did not recall Robert Russell or Bobby McCrudden being at this location. Mr Kelly did not see them until he was in the Petticrews' bungalow at a later point.

10.148 When they got to the Fosters' they helped Harry Flynn push a van and let it roll across the road until it stuck in the garden of one of the bungalows. Mr Kelly also indicated this position on the map, which places the van within the alleyway just outside 84 Westrock Drive before being pushed out. He believed the van may have belonged to the Fosters and was sitting outside the front window of their house. It was pushed out between the Springhill flats and Westrock bungalows into the middle of the gap. When later asked whether he was sure about the van being present - as no other witness had mentioned this in their evidence and there had been quite a lot of people at that location at the time - Mr Kelly did not accept that he was mistaken. He thought that he, David McCafferty, his brother Sammy and Harry Flynn were involved in pushing the van out, which was then used as cover to get into the space between the bungalows at the side door of the Petticrews' bungalow. They wanted to get to the Petticrews' as they had heard that someone was shot and lying in the garden and they wanted to go and help. He said the shooting was fierce and overwhelming. Although he did not see anyone who was shooting, he said he knew it was coming from Corry's Yard. He said when he was at the van he had not seen anything that would explain why soldiers were firing their weapons.

10.149 In the relevant chapter of his book, Mr Kelly describes bolting from the Springhill flats to behind the van and then across to the Petticrews' bungalow. He shouted back to David McCafferty not to do the same. In his book he also made the point that David McCafferty was not armed that night. In oral evidence he was not able to explain why he went to the Petticrews' house in particular, other than indicating that they had been told there was someone lying out in a garden nearby. He did not know where his brother went and said that he never discussed that with him. (I simply did not believe this, particularly in light of other evidence Mr Kelly gave to the effect that, when something such as these events happened, it was all the boys his age talked about. To suggest he had never spoken to his brother about his further movements or experiences that night was, in my view, frankly incredible.)

10.150 Mr Kelly was then at the Petticrews' bungalow until much later that night. He could recall Theresa McGuinness, Robert "Goose" Russell, Bobby McCrudden and Teresa McShane being in the Petticrews' bungalow, and also John Doherty whom he did not see but whose voice he heard and recognised. He said that, when

he got to the Petticrews', his recollection was that Brian Petticrew was already in the house and injured. He described going out with Robert Russell and Bobby McCrudden to try to retrieve John Dougal's body and them lifting and dragging him in. (The book appears to describe the body being taken through the front door of No 58 Westrock Drive, out its side door and into the side door of No 56, the Petticrews'.)

10.151 Mr Kelly said that John Dougal's body was the only one of the deceased which he saw that night. He marked on the map where he saw it at position 'X7', in the garden of one of the bungalows, No 58. Although he had been at the location where Patrick Butler, Fr Fitzpatrick and David McCafferty were killed, he said this was *before* it happened. He last saw David when he told him not to run across to the van. He did not know David McCafferty had been killed until later, when a man came into the bungalow and told them this. It was dark inside the bungalow at this point so he could not see who that man was. He believed this was after John Dougal's body had been taken out through the wall. Mr Kelly thought he must have been in the Petticrews' bungalow when David McCafferty was shot. Questioned further about the recovery of John Dougal's body, he confirmed that he saw this but that he only went out partially and saw it from near the Petticrews' home. Mr Kelly said that he did not know anything about Margaret Gargan being shot until the next day.

10.152 He also said he did not see any gunmen on the ground at all that night, either from the Official or Provisional IRA. (He did, however, hear the gun battle the following night. He was told that Harry Flynn had lost two fingers when they were shot off. That is supported by an entry in the Battalion Log on 10 July, serial 57, at 13.13. There having been significant firing from the area of Corrigan Park and Corpus Christi Church, there is a report of Henry Flynn (18) of Springhill Avenue being admitted to the RVH with a gunshot wound to his left hand, probably sustained in firing by security forces at Corrigan Park.) He knew later that the IRA ceasefire broke on 9 July in Lenadoon but his memory was of seeing this on the television news afterwards. He was not sure he would have known about it around 9.00 pm on 9 July when the trouble started in his area.

10.153 In his book, Mr Kelly had described how he left the Petticrews' and went into the Campbells' bungalow through the hole in the wall. He thought this was about 11.00 pm to 12.00 midnight. It was dark but he had no reference point to indicate the time. He went and stayed in the Muckians' house that night as he feared being shot if he came out of Westrock. He said David McCafferty's body was not brought to the Muckians' house. He left the next morning at 8.00 to 9.00 am. He recorded in his book that the IRA returned fire the next night and that it took the IRA some time to get itself together. As to the events of 10 July 1972, he thought there was a gun battle all day. He indicated that he did not go back to the scene the next night but this was what was talked about.

10.154 Mr Kelly was asked about the reference in his book to "a mate of mine who was near him [Martin Dudley]" who "said that all he saw was a puff of hair lifting

off his head". He said that this mate was Gerard Heath who told him about this within about a week of it having happened.

10.155 When asked if, in July 1972, he was a member of any unlawful association, Mr Kelly (after having received a rule 9 warning) denied this. Further questions were put to him in examination by Mr Aiken for the MoD in relation to knowledge of, or involvement in, unlawful organisations. He indicated that he had never heard of the Sean Doyle Sluagh. He denied that his brother was a member of the Fianna in March or July 1972. When asked about the references in his book which explained that his mother and father were in the IRA, he relied upon his privilege against self-incrimination and declined to answer. He was asked about his own conviction for carrying a 250lb bomb in 1981 but relied on his privilege when asked about further details in relation to this incident.

10.156 Mr Kelly confirmed that he knew Gerard Heath, Robert Russell, Paddy McManus, Martin Dudley and Martin Mulligan. He knew Brian and John Petticrew but would not knock around with them as they were older. He also confirmed that he knew Michael Magee (who had died as a result of being shot in a weapons training exercise on behalf of Na Fianna); John Dougal, whose house backed onto his; and Joe McElkerney, who was the same age as him and a neighbour. He relied on his privilege against self-incrimination in relation to questions about his knowledge of their various involvement with unlawful associations. He would, however, answer some questions in this regard, for instance indicating that he did not know that Harry Flynn was involved in anything; and did not know that Bobby McCrudden was in the IRA. He was also asked about further detail as to what he was doing before he met with David McCafferty. He was asked about the fact that two soldiers were shot at either end of Springhill Road earlier that day. Mr Kelly indicated that that was the first he had heard about two soldiers being shot.

10.157 There is at least one aspect of Mr Kelly's account in his book which appears to me to be clearly wrong. He suggested that he believed David McCafferty was "hit eleven times while he was lying on the ground" and that he was therefore cut "to pieces". The pathology evidence simply does not support this; indeed, it flatly contradicts it. Mr Kelly said he did not know where this information had come from but remembered someone (he could not remember who) saying David McCafferty had been hit a lot of times. He also contended in the book - obviously again not from first-hand knowledge on the basis of his sworn evidence - that Fr Fitzpatrick and Patrick Butler "stuck their heads out to look at David [McCafferty] lying on the ground" and were then shot, which is at odds with the evidence of other eyewitnesses who have given evidence in the course of this inquest. (I return to this issue below.) As he acknowledged, the suggestion that the Parachute Regiment was involved in Springhill was without foundation. The book also suggested that it was believed that it was the same soldiers involved in the Springhill incident as had been "involved in eleven murders in Ballymurphy and went on to murder fourteen people in Derry on Bloody Sunday". Again, this is pure speculation with no apparent basis in fact.

10.158 I did not believe Mr Kelly when he denied being involved in the Fianna. In his book (see p 10) he described that “the war had begun” for him and his friends in 1969 when he was 12. He then described getting “involved with the republican movement when I was about thirteen”, which he said meant he was “out defending my area from loyalists and British forces”. (In the course of civilian evidence, I heard the phrase Republican movement used on a number of occasions in obvious euphemistic reference to the Fianna and/or the IRA.) A “wee gang” of five or six of them “did something”, even if only throwing a bottle, “every time the Brits came into Springhill”, including blocking roads by way of further example.

10.159 In his book, Mr Kelly then went on to explain how the war he had mentioned was at its height in the early 1970s. He described the Fianna as the junior wing of the IRA; and noted that a lot of boys from his school joined it and were out rioting and organising every day. When shown the death notice claiming that David McCafferty was the Junior OC of the OIRA Fianna, he said he did not know that. I did not find that credible in light of the content of his book, purporting to know of others his age who were involved and about the activities of the Fianna (discussed in Chapter 6). Given the obvious pride in his book at his parents’ involvement in armed republican struggle and the discussion of his upbringing, I cannot believe that he would not have joined the Fianna at an appropriate age or that that is not what he was referring to in the passages of the book mentioned above. I believe the content of his book is entirely consistent with that (without going so far as to state it plainly); and that, had he wished to distinguish himself from others he was purporting to know to be involved in the Fianna, that this would have been made more clear.

Robert Russell

10.160 Robert Russell gave evidence on 15 April 2024. He had given a written statement to the inquest dated 22 January 2023. He had previously provided an account published in the Springhill Massacre booklet and at the St Aidan’s Inquiry. In his statement, he indicated that he was happy that the account in the booklet was a true account given at that time, although he said that he had forgotten some of the details of it due to having suffered a stroke which had affected his memory. He confirmed that he is known by the nickname “Big Goose”.

10.161 In July 1972 Mr Russell was 14 years old and still at school. He lived at 37 Springhill Crescent, Belfast with his parents. This faced Henry Taggart Hall and you could not see Corry’s Yard from his home.

10.162 In the early evening of 9 July 1972, Mr Russell said that he went to help Bobby McCrudden (a friend of his, who was 19) at the ex-servicemen’s club which was at the end of the bungalows beside Corrigan Park, between the Campbells’ and the McGuinness’s bungalows. Mr Russell marked this location on a map appended to his statement. He said this was a members’ club for Catholic ex-servicemen who had been in the British armed forces in World War II or before 1969. The club did

not serve alcohol at that stage and was described as a gathering place. It was in a portacabin.

10.163 There, Mr Russell and Bobby McCrudden “were monitoring the field telephones and hand held radios, which we had to link the areas in the case of any trouble”. The field telephones linked ‘the bullring’ in Ballymurphy to the club and the club to ‘checkpoints’ at the end of Whiterock Gardens / Whiterock Drive, Springhill Avenue and the West Circular Road. Mr Russell said that this was to protect the community in case of trouble or incursion by loyalists, so that they could alert people in the area. He insisted that the communications network belonged to the Ex-Servicemen’s Association. However, at the St Aidan’s Inquiry he had described it as a communication centre which “belonged to the IRA” for communications between Whiterock and Upper Springfield, in which he and Bobby McCrudden were monitoring communications and “different scanners”. He could not explain why he had said this at St Aidan’s. (I did not find his evidence on the purpose of this communications system credible, given the inconsistency in his accounts.) He said he could not remember the type of information which had been relayed that day. I also did not believe that given the significance of the events of that day surrounding the end of the IRA ceasefire; and the fact that, in his account in the Springhill Massacre booklet, he had described the club as being used as a communications centre “to monitor the Truce”, amongst other things.

10.164 While he and Bobby monitored the phones and radio, PJ Walls, an ex-serviceman, was behind the bar trying to put in a drainage pipe through the floor of the portacabin. Mr Russell remembered hearing a strange noise and suddenly Mr Walls jumped up and shouted that they were under fire. He did not know what time this was, but PJ Walls said they needed to get out of the portacabin and try to get to cover. When they left the portacabin, he saw bullet holes in the windows and in the roof. The three of them ran across to the front of the Campbells’ bungalow, which joined onto the Petticrews’ bungalow. He said there was constant shooting at this stage and that it was coming from Corry’s Yard. In oral evidence he described the shooting as coming from right to left from Corry’s. It was coming from near the Tates’ and Gregorys’ houses (Nos 33 and 41 Westrock Drive), “straight down the middle” between the Tutons’ and Lewsleys’ bungalows (Nos 60 and 52 Westrock Drive).

10.165 He did not remember seeing anyone on the street because of the shooting. He remembered going into the Campbells’ house and then into the Petticrews, he thought possibly through a window. He said he just followed PJ Walls. He could not explain why he had gone to the Petticrews’ house in particular (although in his account in the booklet, he had indicated that, at Kate Campbell’s, they had been told that John Dougal, Brian Petticrew and Martin Dudley had been shot).

10.166 Mr Russell said that his next memory was seeing Brian Petticrew lying injured on the kitchen floor. He was conscious and there was blood everywhere. In his evidence to the inquest, Mr Russell said that Brian said that Martin Dudley and

John Dougal had been shot; and that John Dougal was lying outside the next-door neighbour's house in the garden. He and Bobby McCrudden went outside to see if they could see where John was lying. They went to the area between the bungalows to try to look around the corner; they could see that John Dougal was nearly at the neighbour's front door. Shots were still coming down into the area from Corry's Yard.

10.167 Mr Russell marked various locations on the map which was attached to his statement. This included the location of John Dougal's body at position 'A', shown just outside the front door of 58 Westrock Drive. He and Bobby McCrudden then went to the house next door. There were people in the house who said they could not get to John Dougal because of the shooting. He was lying outside the front door on his back. They decided that they had to get him, so they opened the door and ran out to him and got down beside him.

10.168 Mr Russell remembered that he was wearing gloves. In oral evidence he described these as ordinary woollen mitts which he had in his pocket. He said "for whatever reason", he put them on, but was unable to explain why he did so or why he had them with him at that time. When it was suggested to him by my counsel that the reason for wearing the gloves may be connected to his using a gun that night, he relied on his privilege against self-incrimination.

10.169 They grabbed John Dougal's clothes and trailed him into the house, slamming the front door shut. This house and the Petticrews' house was being hit with gunfire. They took John Dougal out the side door and entered the Petticrews' house via the side door, laying him on the living room floor in front of the fire. John Dougal was dead.

10.170 Mr Russell said that they were stuck in the Petticrews' house because of the shooting. However, he and Mr McCrudden took turns to go out the side door and look round the corner at Corry's Yard to see what was going on. He was not sure of the time but said that word must have spread throughout the district and Paddy Butler appeared in the alley (at a position he marked with a star on the map, which appears to be in the back passageway between 62 and 84 Westrock Drive). Mr Butler was with two Mother Teresa nuns. Mr Russell saw him from the space between the Petticrews' bungalow and next door. Mr Butler shouted over that they were there to help and give the last rites. He was told not to move or he would be shot. People in the house were begging him not to move. There was shooting coming down the alley, from the direction of Corry's Yard, and you could see "vapour trails" left by the bullets. Mr Butler then left with the nuns but came back a short while later - within 15 minutes, maybe less - with Fr Fitzpatrick.

10.171 Fr Fitzpatrick and Mr Butler were about to come across the alley to the Petticrews' house. Mr Russell said that they were all shouting and screaming at them not to move, as they would be shot. He said someone in the house shouted out to them that they were not to worry about the last rites because John Dougal was

already dead, Brian Petticrew was all right, and they could not get to Martin Dudley. Mr Russell said that he could remember that Paddy Butler was holding Fr Fitzpatrick by the elbow and the two of them took a step into the alley behind the Petticrews' house, with Fr Fitzpatrick slightly in front. Fr Fitzpatrick was hit with a bullet about his left ear and it came out the other side, hitting Paddy Butler in the face on the left side about the cheekbone. He said he saw blood and pieces of body fly in the air. Whatever way Fr Fitzpatrick was standing, he lost his balance and went down. His body was lying in the alley from the waist down at a position marked 'D' on the map (just inside the alley and in front of the Fosters' window), away from the cover of the wall. Paddy Butler was marked at position 'C', lying further towards the end of the alleyway.

10.172 Mr Russell said that Brian O'Kelly had been standing a bit behind Fr Fitzpatrick and Mr Russell did not see him until Fr Fitzpatrick fell. When he was hit, Fr Fitzpatrick swung round and Brian O'Kelly was drenched in his blood. Mr Russell then saw David McCafferty run over to try and pull Fr Fitzpatrick out of the alley. He put his arms under the priest's armpits to try and pull him into cover. He was positioned at 'E' on the map, between Paddy Butler and Fr Fitzpatrick. As David McCafferty pulled the body, he was hit in the chest by a bullet. His arms were locked under the priest's armpits. Mr Russell said that he was "then hit several times in the chest and fell back onto his back". In later questioning, Mr Russell reiterated that he saw David McCafferty being shot 8-9 times in the chest. He denied making that up and said that that was what his mind saw.

10.173 People then came out to try and help Fr Fitzpatrick, Patrick Butler and David McCafferty. Mr Russell remembered that they were tearing sheets into strips and packing them into holes in David McCafferty's back. Paddy Butler and Fr Fitzpatrick were dead. He could not remember the bodies being moved; but Bobby McCrudden did go over to see if he could help.

10.174 Mr Russell also remembered people digging a hole in the wall of the Petticrews' house to get into the Campbells' house. They were using anything they could, as Brian Petticrew was bleeding heavily. He did not remember who all was in the Petticrews' house but said it was packed. He then remembered carrying Brian Petticrew through the hole in the wall into the Campbells' house on a makeshift stretcher.

10.175 He could not remember where he then went to, if it was to someone else's house or if he tried to get home. In his oral evidence, however, he indicated that, sometime later, when they had got Brian Petticrew out, he had gone over to where Patrick Butler and Fr Fitzpatrick had been shot. He also remembered going to the Donnellys' house (which he had indicated in his account in the Springhill Massacre booklet). He vaguely remembered a priest hearing confessions or giving absolution. He said that people were getting shot and the confession was to cover their lives. When asked if this was because of unlawful activity, he relied upon his privilege against self-incrimination. He also did so when asked about the mention in his

account in the booklet of fire being put into the apexes (i.e. shooting at the apex of the wood shed in Corry's Yard) but it not stopping the shooting from the Brits.

10.176 Mr Russell said in his statement that he did not see any gunmen that day; but there were gunmen who arrived there later that night and were shooting up the alleys towards Corry's Yard to try to protect the community. He declined to adopt this element of his statement under oath, instead relying on his privilege against self-incrimination. He said in his statement that he was not a member of any organisation and did not have or use a gun that day.

10.177 Mr Russell also said in his statement that he did not see Martin Dudley or anyone else who was killed or injured, other than those he mentioned in his statement. (Nor did he mark the location of Martin Dudley's body on the map attached to his statement, despite marking the location of others.) He did not remember seeing any ambulances that day or any cars near where Martin Dudley was shot. He described the position of John Dougal and said that he had a view up to the turning circle from his position between the bungalows but that he did not see anything there, whether vehicles or people.

10.178 Mr Russell was asked about possible connections to unlawful organisations by both my own counsel and counsel for the MoD. He denied being a member of an unlawful organisation, including the Fianna. However, he relied on his privilege against self-incrimination when asked if he was familiar with the Sean Doyle Sluagh; about intelligence material suggesting that he was a member of it (or, later, the Michael Kane Sluagh); about whether that explained why he had been working in the ex-servicemen's club; about knowledge of the Fianna, its activities or arms dumps; and a variety of other questions relating to intelligence material which was put to him. He said he did not know Mr McCrudden was in the IRA but then also relied upon his privilege when asked when he found this out. He confirmed he knew John Dougal, Brian and John Petticrew, Bobby McCrudden, Martin Dudley, Paddy McManus, Paddy Teer, Martin Mulligan and Joe McElkerney. He did not remember seeing John Dougal or the Petticrews earlier that day; and denied seeing any of the others that day (or Jim Bryson or Tommy Tolan). He knew of David McCafferty. He did not know Michael Clarke, Michael Sloan or Michael Magee. He said he did not know John Fusco at the time, but did later.

10.179 When asked about his account in the Springhill Massacre booklet, Mr Russell could not remember giving this account. He also said he never saw it in the pamphlet. He could not remember at all how it came about. He was asked, in particular, by Mr Aiken about the statement in that account that "there weren't *many* IRA Volunteers" (emphasis added) in the Westrock area to respond to the attack. When asked who the IRA volunteers were, he relied upon his privilege and declined to provide any information in relation to this, nor as to how he would know who was in the IRA. He was also asked about the reference in that account to David McCafferty, having been shot, bouncing back and hitting the van once or twice

which had been parked in front of the Fosters' window. In oral evidence, he said that, looking at it now, he did not remember the van.

10.180 As noted above, I did not find Mr Russell's evidence credible on the purpose of the communications centre at the ex-servicemen's club. It seemed to me more likely that his account at the St Aidan's Inquiry was more candid and accurate and that this was used for the purposes of IRA communications in the area. In evidence, he was not able to give any reason why he would be involved in monitoring communications there if he was *not* in any unlawful organisation. (His evidence was that the communications centre was in communication with 'the bullring' in Ballymurphy. In Mr O'Rawe's book, he describes that the IRA company headquarters at that time was "in an upstairs flat in the Bullring", in which "two dozen rifles and sub-machine-guns" were spread out against the wall.) Mr Russell was monitoring communications with Bobby McCrudden, whom the Springhill Massacre booklet states was "killed on active service" only three weeks later and who I am satisfied was a member of the IRA.

10.181 A number of elements of Mr Russell's evidence also seemed anomalous to me. In the first instance, it seemed odd that he was so heavily involved in events at the age of only 14; and that he was so closely associated with Mr McCrudden, an adult some five years older than him. It also seemed particularly strange that Mr Russell was wearing gloves on that evening. His evidence on this was not at all convincing. He simply could not explain satisfactorily why he had these with him on a summer's evening or why he put them on at a particular point. When asked about this further, he relied upon his privilege against self-incrimination, leaving an unexplained gap in his evidence on the point. I concluded that there was no innocent explanation for this and it was likely that he was wearing gloves for some nefarious purpose. This may have been because he had been handling a weapon, was planning to handle a weapon, or anticipated that he might do so (possibly in the course of assisting, or recovering, one of those previously injured, such as John Dougal whose body he was going out to retrieve).

10.182 Mr Russell was not able to explain why he and his companions had gone to the Petticrews' bungalow. He said that he did not remember why they went there. His evidence was that, having left the ex-servicemen's club, he had not seen anyone on the street or injured. There appeared to me to be no reason why the three would go to the Petticrews' house in particular when their goal, as explained by Mr Russell, was to get to safety. (That could have been achieved by running south to Corrigan Park, or to the safety of the brick houses in Springhill or Britton's Drive.) He was also hesitant in his evidence as to why, having gone to the Petticrews' for shelter, he went out to see what was happening. Furthermore, I was extremely sceptical of Mr Russell's suggestion that he could not remember where he then went after having escaped the Petticrews' house through the Campbells'. On being pressed on this with reference to his account in the Springhill Massacre booklet, he did recount some further actions, including going to the Donnellys. He declined to answer questions

in relation to the further information in that account about the IRA coming back into the area and fire being returned at Corry's Yard later that evening.

10.183 I also found it extremely surprising that Mr Russell purported not to have seen any cars near where Martin Dudley was shot, given that, on his account, (i) he was frequently looking around the corner of 58 Westrock Drive towards where John Dougal was lying, which would have given him a direct line of sight up to the circle area (where several other witnesses have indicated that a car or cars were stopped and, indeed, that Martin Dudley was wounded and hanging out of a car or lying beside a car); (ii) he had learned at or before being in the Petticrews that Martin Dudley had been shot, as well as John Dougal; and (iii) he described interaction whereby Paddy Butler and Fr Fitzpatrick were warned that they could not get Martin Dudley. I found it difficult to believe that Mr Russell did not see Martin Dudley or any cars in that area. I do not believe his evidence in this regard was fully candid.

10.184 I also note that, having given evidence in the Ballymurphy Inquest, Mr Russell had agreed that he was unsympathetic to the army. He accepted in evidence that it may be suggested that his evidence in this inquest reflected an antipathy towards the army. However, he said that he was providing his honest recollection. As discussed elsewhere, his evidence about the shooting of David McCafferty many times in the chest simply cannot be right, having regard to the pathology evidence. Either this is a genuine mistake, which casts doubt on the reliability of some of his memories, or is (or was) a dishonest or embellished account to paint the army in a particularly callous or vicious light.

10.185 I have no doubt that Robert Russell was present in the vicinity of the events he describes from that evening. Some elements of his account have the ring of truth and tie in with other evidence provided by additional witnesses in the inquest. I believe he did see the shooting of Fr Fitzpatrick and Patrick Butler. However, I treat much of his evidence with caution. I consider that he was not being candid at times in his evidence and that there was much he wished to hide or downplay. I did not believe his evidence about the nature of his activities at the communications centre within the ex-servicemen's club and, as noted above, consider that his explanation at the St Aidan's Inquiry was more frank and likely to be correct. In this instance, given that factor, the content of his account in the Springhill Massacre booklet (which suggests knowledge of or familiarity with IRA personnel or activity in the area), the suspicious use of gloves that evening and the unsatisfactory nature of elements of his evidence, I consider it more likely than not that Mr Russell was both a member of the Fianna at that time (as also suggested by intelligence material); and that he was involved in activities at some points of that day and/or evening which were likely to be unlawful and in respect of which I was not given a full or frank account, if any.

Gerard Heath

10.186 Gerard Heath's evidence has already been dealt with at considerable length in Chapter 9. He confirmed himself to be Eyewitness Two in the Springhill Massacre pamphlet. The account of Eyewitness Two, as relevant to incident 2, was as follows:

"The next thing was a priest came. I think the priest was Fr. McCaul so the firing got heavier and heavier and we heard a lot of shouting going on in Springhill. There was more hit over at the corner where Fosters and Billy Mills live. We didn't know anything where we were lying. All I know is that the shooting was very very heavy. We learned later on that it was a kid from Ballymurphy called Dee McCafferty. He was hit and the priest and Paddy Butler who lived in Westrock had gone round to try and aid the ones who were wounded at the front of Pettigrews bungalow and also at the side of Fosters' house.

The snipers that day in Corry's had a very accurate fire. It was a bright evening. I can't remember what time it was but he seemed to be watching the reflections in Billy Mills window. He was just facing where the priest and Paddy Butler had come round the corner. He seemed to wait on their coming to the corner and as soon as they put their heads round the corner that's when he shot them."

10.187 This seems to suggest that David McCafferty was shot *before* Fr Fitzpatrick and Patrick Butler. It also suggests that they (Fr Fitzpatrick and Patrick Butler) had gone to assist those wounded at the front of the Petticrews' house and also a person or persons wounded at the side of the Fosters' (which may or may not have been David McCafferty). However, the account also suggests that this witness and his companion did not *themselves* see any of these events and only learned of them later.

10.188 Mr Heath addressed this, albeit briefly, in the course of his evidence. In his statement he indicated that he was unaware that Paddy Butler, with whom his father was very friendly, and Fr Fitzpatrick had been shot until he got home and his father told him. His first-hand evidence clearly related to incident 1; and I did not consider he had any direct evidence of particular value to give in relation to incident 2.

Thomas Reid

10.189 Thomas Reid's evidence has also been summarised in Chapter 9 as he was an eyewitness in relation to the shooting of John Dougal. However, after that, he and his friends went to take shelter in Brian Muckian's house. After 15-20 minutes there they left to go home but stood for a short time in the alleyway where he recalled nuns going into the house at No 78 or 80, he believed with a view to trying to assist

Fr Fitzpatrick and Paddy Butler. He said that he could see three bodies lying in different positions outside the Fosters' house at No 84, describing them as being between the front door of that house (facing the Petticrews' bungalow) and the right-hand corner of the house, although he did not see any of these individuals being shot. He saw Billy Macklin and a man named McMenemy trying to get to the bodies.

Francis Lewsley

10.190 Fra Lewsley's statement, also addressed in Chapter 9, corroborated Thomas Reid in the above respects. He too recalled going to Brian Muckian's house from Corrigan Park and, after a while, trying to get home. He walked up the passageway to the alleyway between the flats and said he could see two bodies lying outside the Fosters' house, behind the Petticrews' garden, just at the corner. He later found out this was Fr Fitzpatrick and Patrick Butler. Not far from the two bodies was another person who was wearing a light-coloured top lying face down, with blood on his back, whom someone said was dead. He saw that this was David McCafferty when some men lifted him onto a corrugated iron sheet. He thought David McCafferty was moved first and then the other bodies were lifted into the Fosters' house.

Teresa McShane

10.191 Teresa McShane's evidence is also dealt with in Chapter 9. However, she described, when having reached the side of the Petticrews' house, looking back and seeing Fr Fitzpatrick and an adult man she did not know standing still in the alleyway or the gap between the houses, believing them to be together. When asked if either of these men was carrying a weapon or anything in their hands, she responded not that she had seen. They seemed to be wanting to go over towards the bungalow.

Other (non-military) evidence

Depositions from original inquest

10.192 *William Macklin:* The evidence contained in the depositions of William (Billy) Macklin and Samuel Thompson, discussed in Chapter 9, are plainly relevant to the deaths included in incident 2: see paras 9.324 to 9.326. Mr Macklin said that he was with Patrick Butler at his (Mr Butler's) house and someone who was shot was "shouting for the priest". He described Mr Butler going to get a priest; and then later seeing him with a nun. He also described Fr Fitzpatrick arriving at the Butlers' house and then sending him back down the passageway opposite. Shortly after, he himself saw the three bodies. He described that Mr Butler was dead but that Fr Fitzpatrick and David McCafferty were still alive at that stage. Interestingly, that might well accord with the pathology evidence (discussed in Chapter 8) which is to the effect that Patrick Butler's death would have been immediate (in the original autopsy report) or almost immediate (in Prof Crane's evidence); with death in the

other two cases being fairly rapid but not instantaneous or immediate. This may underscore the reliability of Mr Macklin's account, at least in this regard, and suggest that he saw the three men very shortly after they were shot. Mr Macklin's evidence was that he had lifted David McCafferty's body and put it into the Fosters' house through their window.

10.193 *Samuel Thompson:* Samuel Thompson was the ambulance driver who picked up David McCafferty's body (in his estimation around 10.45 pm). I have discussed his deposition in Chapter 9 and below. I consider it of assistance in seeking to understand the timing of events.

10.194 *Brian Muckian:* A number of other witnesses, now deceased, gave evidence to the original inquest which is or may be relevant. One of these was Brian Muckian. He said that, on the Sunday night that Paddy Butler and others were shot, he was in the house and heard shooting. He ran up the alley at the back of his house and brought his children in. He then went up the street towards the top of Westrock Drive where Mr Butler, Mr Macklin and others were standing at the Butler's home. He said that there were two cars parked between 47 and 60 Westrock Drive, and he understood there were people shot near the cars. Mr Butler went to get a priest. Mr McMenemy and Mr Muckian went back down the alleyway to get across to the bungalows to get near the bodies. Mr McMenemy crossed first and Mr Muckian went next. He said that when he was halfway across there were two shots fired. He then got in between the bungalows. As he did, he looked across the opening and saw Fr Fitzpatrick, Patrick Butler "and the boy McCaffrey" coming running towards the opening. He said they were going down to the parked cars where the injured were.

10.195 Mr Muckian's deposition went on to say that as the three came to the end of the Fosters' house, at No 84 Westrock Drive, "two further shots rang out and the three of them went down". He said there was no movement and they were dead. Mr Muckian's deposition said that the shooting started about 9.30 pm and kept on indefinitely for five days. He added that the shooting was coming from Corry's Timber Yard which is facing Westrock Drive; and there was no shooting from Westrock Drive at that particular time when these three men were shot. (Interestingly, the deposition originally said that there was no shooting from the housing areas "on that night". That has been corrected in the coroner's handwriting to indicate that, in giving oral evidence, the position which was explained was different. However, Mr Muckian's evidence at the original inquest was that there was no shooting from the houses when Fr Fitzpatrick, Patrick Butler and David McCafferty were shot.) In oral evidence at the 1973 inquest he said that he was in the house and knew where the shooting was coming from by the sound and also then later saw flashes coming from the timber yard.

10.196 *Gerard McMenemy:* The other man referred to in Mr Muckian's deposition, Gerard McMenemy, also gave depositions and evidence to the 1973 inquest. He provided a deposition in the inquest relating to Fr Fitzpatrick's death and also in

that relating to Mr Butler's death. In the first, he said that he had been standing in his own door and saw Mr Butler with two nuns coming from his (Mr Butler's) side of the street. They crossed over the street and down the passageway between his house (at No 64) and 66 Westrock Drive. Mr McMenemy said that at that time there was a lot of gunfire which was being directed at his house and "the alleyway" (in his words, which I understand to refer to the passageway). He said that as far as he knew Mr Butler was taking the nuns to the left of the alleyway to give first aid to people who were already shot. The next time Mr McMenemy saw him was shortly after that, when he was coming out of the entry into the alleyway with Fr Fitzpatrick. Mr Butler was then taking Fr Fitzpatrick around to the left of the alleyway to attend to one or two who were shot. Mr McMenemy did not see him again (presumably now referring to Fr Fitzpatrick, since the deposition relates to his inquest) until he saw his body lying at the front window at No 84. Mr McMenemy said that the shooting started out of the blue and the first that he knew of it was a bullet striking the front of his house at the bedroom window. He said there was no shooting whatsoever from Westrock Drive and all the shooting was coming from Corry's Yard. It lasted all evening and continued the next day. The coroner has then made a note saying, "About 10.10 pm".

10.197 In Mr McMenemy's deposition relating to Mr Butler's inquest he said that he was told that a man from across the street was dead. (Mr Butler lived across Westrock Drive from Mr McMenemy, albeit not just directly across.) He went to an alleyway behind the house opposite him and saw a blanket covering something. There was a van and he helped put what he then knew to be a man's body into the van. Patrick Kane drove the van and Mr McMenemy went with him. They went to the Royal Hospital and when they put the body on the stretcher out of the van he saw that it was Patrick Butler. It is not clear precisely when this happened but Mr McMenemy said that at 12.20 am on Sunday, 10 July 1972 he was shown the dead body of a man by Detective Constable Thompson at the morgue at the RVH and recognised it as Patrick Butler. This statement had previously noted the time of 10.10 pm. That was struck out but, as noted above, the coroner made a handwritten note of that time being mentioned in oral evidence by Mr McMenemy. It remains unclear to me whether this relates to when the incident commenced, when Mr McMenemy thought that Fr Fitzpatrick and/or Mr Butler had been shot or when he saw the bodies.

10.198 *Fr Kevin Donnelly:* Fr Donnelly also gave a short deposition to the 1973 inquest. He had identified the body of Fr Fitzpatrick. However, he also indicated that he had last seen Fr Fitzpatrick alive at about 4.30 pm on 9 July 1972, when he was in good health. He also said in oral evidence that he went to Mrs Donnelly's house at 10.15 or 10.20 pm the night that Fr Fitzpatrick was shot and that he was dead at that time.

10.199 *Charles Butler:* Charles Butler also gave a short deposition to, and was called at, the 1973 inquest. He identified the body of his brother, Patrick Butler. He also

said that he had last seen Patrick at about 9.00 pm on 9 July 1972, when he left his house after visiting him.

10.200 *Medical witnesses:* There are brief depositions from a number of doctors certifying the death of the three deceased. There is a deposition from Dr I Jackson which indicates that he examined the body of David McCafferty at 10.40 pm and pronounced him dead at that time on 9 July 1972. Patrick Butler was said to be admitted to the RVH at 12.00 midnight and pronounced dead on arrival by W Wilson, Consultant Surgeon. Fr Fitzpatrick was pronounced dead at the RVH on 10 July 1972 at 2.30 am by Dr Rosemary Shillington.

HET materials

10.201 There are some notes from interviews or telephone discussions with HET officers which also provide some potentially interesting information (although largely hearsay) in relation to these deaths:

- (a) *Bishop Walsh:* There are handwritten notes of what appears to be a meeting or telephone call with Bishop Walsh. Some of these are difficult to decipher and somewhat disjointed. However, there appears to be a reference to Patrick Murphy, a parish priest, coming "up after in car", going towards the church and jumping over a fence and breaking his toe. There is reference to "crossfire - PIRA up towards Springfield Road" and "JP Corry's looking down shooting into Springhill. There is then a note that Fr Fitzpatrick had already gone up; but it is unclear if this is before Fr Murphy arrived or before the crossfire. Fr Fitzpatrick is noted to have gone to the Antrim Road for dinner at his sisters but came back. There is a reference to a call from Mother Teresa's nuns and people told Fr Fitzpatrick. There is then a reference to someone going into a home through a window who (it seems) "anointed him with oil [illegible]", when he had been shot in the head and his life was ebbing away. Returning back to Fr Fitzpatrick's actions whilst still alive. The notes appear to suggest that (Bishop Walsh said) he had parked his car next to the church and went with Patrick Butler to go to get a boy. He carried oils in his hand. This is followed by "(gun)" in parentheses. There is then a note that there was strong sun reflecting on a window and (it appears) a reference that someone "saw Noel carrying something". Fr Fitzpatrick and Mr Butler were then shot. The note suggests there was reference to being shot from the left and shooting "anything moving". There is a note of "PIRA shooting up" and "prayers/Rosaries"; and then an ambulance taking Noel to the morgue and going into the parochial house at 3.00 am. It is difficult to know what to make of all of this. It is likely all second-hand hearsay but maybe represents some of what churchmen believed had happened. The central theory, I think, is that Fr Fitzpatrick was carrying oils to anoint someone as part of the last rites and that a soldier saw a reflection of this in a window in the sun and may have mistaken it for a gun.

- (b) *Una O'Reilly*: There are notes from a meeting in February 2007 with Mrs Una O'Reilly (Fr Fitzpatrick's sister) and Ruth O'Reilly. This provides Una O'Reilly's account of what she had been told about Fr Fitzpatrick's movements. There are two handwritten versions and a typed version. She thought her brother had left her about 6.00 or 6.30 pm and said he was going home to the Falls Road. She was living off the Antrim Road. She then thought she got a phone call around 8.10 pm from a housekeeper to say a priest had been shot and that it could be Noel but may not be. She said there had been a ceasefire but the IRA broke the ceasefire agreement that night. Her understanding was that Fr Fitzpatrick had been met by Mr Butler and that they were going to help a young girl who had been killed (Margaret Gargan). The note suggests that Noel parked up his car, which was a green Vauxhall, and he was met by Mr Butler to walk in; but she did not know where from. Someone had said there was a reflection of the white of his collar. He was in his priest's uniform. She thought the bullet went straight through Noel's neck and exploded in the face of Mr Butler. Later, after the housekeeper's phonecall, she kept ringing the parochial house and also rang Noel's brother, Raymund. Fr McCarry visited her personally to tell her about the death; and Raymund took care of the funeral arrangements. She appears to have said that Raymund always maintained that the shooting of their brother was a mistake and he was "afraid that Sinn Féin would get hold of it" and use it as a platform to further their cause or 'jump on the bandwagon'. Her own belief was that it was no accident, as her brother's clerical collar was visible. She also thought two men had come forward to help them and they were shot in the back. Her understanding, however, was that this was David McCafferty and John Dougal (which cannot be correct, in my view). Her understanding was also that none of those killed were armed.

Histories given in autopsy reports

10.202 Each of the autopsy reports in respect of the deceased includes a short history. It is unclear precisely where this came from but it may well have been from information provided to the police (or RMP) at the hospital when the bodies were taken there; or as a result of very early enquiries by the police. It is difficult to know how reliable these might be but, in any event, they represent a very early understanding in each case of what might have occurred. They might well provide a helpful contemporaneous indication of when it was thought that the death or shooting occurred.

10.203 The autopsy report in relation to Fr Fitzpatrick records a history as follows:

"He was a parish priest attached to Saint John's Church in the Upper Springfield Road. He had been quite healthy recently.

On the evening of July 9th, 1972, there was a gun battle in the Upper Springfield Road between the Army and the IRA. This man, accompanied by an acquaintance, was out in the district when, at 9.45 pm, both he and his companion were struck by bullets. This man fell in the road and during a lull in the battle his body was recovered and taken to a nearby house. Later he was conveyed to the Royal Victoria Hospital by the Knights of Malta ambulance. His companion was found lying dead in an alley behind some houses (see No F 14,153)."

10.204 The autopsy photographs clearly show Fr Fitzpatrick dressed in a priest's garb: a black suit, what looks like a black shirt (but is likely the clerical stock referred to in the autopsy report) and a white clerical collar at the neck. This is supported by the deposition of David Todd, a scenes of crime officer, who gave a deposition to the original inquest which refers to the clothes which he took for forensic examination including a black jacket coat, black trousers, and a collar and stock. A deposition from Dr Shillington, casualty officer on 10 July 1972 at the RVH, said that Fr Fitzpatrick was brought into the RVH at 2.30 am that day.

10.205 The autopsy report in relation to Patrick Butler records a history, which reflects that recorded in relation to Fr Fitzpatrick, and contains details similar to some of those in Gerard McMenemy's deposition, such that it might have been that his information formed the basis of it. It states as follows:

"He was married and lived with his wife and six children in the Upper Springfield area of Belfast. He was a labourer and had been healthy recently.

On the evening of July 9th, 1972, there was a gun battle in the Upper Springfield area, between the Army and the IRA. This man was out in the district with the Parish Priest of the area when they were both struck by bullets at about 9.45 pm. He was found dead in an alleyway behind some houses. He was conveyed to the Royal Victoria Hospital in a van. The priest died in the roadway (see F.14,151)."

10.206 The report in relation to David McCafferty records a history as follows:

"At about 9.30 pm on July 9th 1972 he was in the Springhill-Westrock Drive area playing handball when shooting started. There were nuns on the road and he assisted in getting them to safety. Then Father Fitzpatrick (F14,151) was shot and the boy was said to have run towards him, when he was also shot. He was brought to

the hospital by an ambulance and was pronounced dead on arrival.

There was severe shooting in progress that evening between the IRA and the Army, following the cessation of the Provisional IRA truce.

There was no past medical history."

Springhill Massacre booklet

10.207 There are a number of persons, now deceased, whose only accounts are found in the Springhill Massacre Booklet. I refer to a number of these below.

10.208 *Margaret Butler:* There is a contribution in the booklet from Patrick Butler's wife, Margaret. She gave some background details about her marriage and family. She said she always went out on Sunday nights to the community centre and was going out that night with her sister. When she got to her mother's in Ballymurphy Drive, all the shooting started. Her mother told them not to go any further. She made her way down and they were still shooting. She just got to the corner when her husband came and said that they were shooting from Corry's. He got her up and told her not to go out. All the men were standing around but they were not in any danger of the shooting because of where they were standing.

10.209 Mrs Butler was waiting for Paddy to return. The next thing, everything seemed to die down and everyone seemed to go away. Different rumours were flying around about who had been shot. Next, "one of the Sticks came in and he was saying, "Jesus Christ, they wouldn't even let you have a shot of their guns!" The account says he must have been an ex-Stick or something. He referred to many people being shot but when he heard Mrs Butler's name he said he had to go and left.

10.210 Mrs Butler then went out the door and saw big John Moore. He said that the last time he had seen her husband he had run down the entry with two nuns but he had not seen him since. He said he would go and see if he could find out where Patrick was. Mrs Butler then started to panic about her daughter. However, there was no way she could get across. She could see Martin Dudley lying and that made her panic worse. Then "some old boy" told her to get in the house as there were people being shot. As the night went on, she started to panic but John Moore came back and assured her that her daughter Margaret was all right. Then a priest came to the door with a first aid girl from Ballymurphy and they gave her a tablet. She realised something was terribly wrong and her family then came in and told her that Paddy was dead.

10.211 Mrs Butler's contribution suggested that her husband was a jolly man who lived for his family and work; and that he was not political. She said he was

innocent and made a point of observing that, on the night he was murdered, Paddy Butler did not have a coat on but was in a short-sleeved shirt. Her comment was that, "If you're going out to shoot somebody, you'll know not to go out in your short sleeves". She continued:

"Wee Dee McCafferty was with him and that's how it happened. That was how my husband got it. He had gone out to try to pull Dee McCafferty in. He and the priest had just turned to try and get him and the bullets went through the priest's neck and through Paddy's face."

10.212 Significant parts of this account were removed in the further edition of the pamphlet published in 1999, including the first two sentences of the above quotation which appear to suggest that association with David McCafferty led to Mr Butler being shot. This account did, however, say that "not one of them" (seemingly referring to Fr Fitzpatrick, Patrick Butler and David McCafferty) "had a gun".

10.213 *Nora McCafferty:* In the contribution to the Springhill Massacre booklet from David McCafferty's mother, Nora McCafferty, she indicated that he stayed home until about 9.30 pm and he then went out to talk to Paddy Flynn and Bobby Purdy who were fixing their motorbike. A while later she got word that David had been shot, although the account says that the McCaffertys were told that he had been shot in the leg. She said she had also been told that David had gone with two nuns and a priest to help someone who had been shot, adding that he had always been very friendly with the two wee nuns. This account notes that David got the nuns into the house, and told them not to go anywhere. He then saw Paddy Butler and, when Paddy told him that he was going to get a priest, David joined him. This account suggests that all three were "going towards some young boy who had been shot and they themselves were murdered".

10.214 Mrs McCafferty's account is certainly incorrect to some degree because it suggests that David was "shot over seven times most of them in the back" when that is clearly inconsistent with the autopsy and pathology evidence. It is not clear from whom Mrs McCafferty obtained most of these details (assuming, as I do, that the account reproduced in the booklet represents what she said). The time when David left her home is likely to have been within her own direct knowledge; and so too might be the identity of the boys he was talking to. This is also the account which indicates that David McCafferty was a member of the Official IRA Junior Wing but says that "they also ignored the whole incident".

10.215 *Eyewitness One:* Eyewitness One's account in the booklet also has some detail which is relevant to incident 2. After recounting seeing X at the electricity box with a revolver, Y (a 'Stick') with a grease gun, and Jim Bryson, he went on to describe Fr Fitzpatrick coming on the scene. He said people shouted to Fr Fitzpatrick to park his car at the shops, which he did. He then made his way to where they were standing (at the gable walls of the houses facing Corpus Christi). Fr Fitzpatrick was then told

how to get to where the dead and wounded were. He then ran over to the Springhill houses on the right hand side of Westrock Drive. As he was running he was waving a large hanky which Z was laughing at. The sniping was constant and everyone had to be extremely careful running between the houses.

10.216 Eyewitness One then described crossing the road with his mate, whilst “other people all opened fire simultaneously”, and finding out that there were several dead in a house and one man lying dead between the houses. They got a stretcher out of an ambulance that had just arrived on the scene and went towards the last house between Springhill and Westrock. The living room window of the house was opened and a body passed out towards them. Running back towards the ambulance, he realised that it was David McCafferty who was dead, which caused him to break out in nervous laughter. After leaving David McCafferty’s body in the ambulance, he ran past Mary McVeigh’s living room and she opened the window and asked why everyone was running. She had been watching television. She said she had not heard the shooting and had heard nothing else. The author said he then pointed out Paddy Butler’s body to her and told her to get the kids out of the front rooms and move them to the back of the house. During all this time more and more people were coming into Springhill or Whiterock with more weapons.

10.217 *Fr Des Wilson:* Fr Wilson provided a tribute to Fr Fitzpatrick (and Fr Mullan who had been killed in Ballymurphy) in the Springhill Massacre booklet. The tribute did not really address the circumstances of the shooting, which he did not witness. It described Fr Fitzpatrick as quiet, a bit shy, with a ready smile and very tolerant. He was described as more ‘pious’ than Fr McMullan, thinking of giving people opportunities to pray and receive the sacraments, amongst other things. He had originally trained as a chemist. He was further described as conservative but with patience, humour and a great idealism.

RUC Duty Officers’ Reports

10.218 The RUC Duty Officers’ report for the 24-hour period ending at 8.00 am on Monday 10 July 1972 includes some relevant excerpts, as follows:

“(14) At approximately 10.10 p.m. on Sunday, 9th July, 1972, the body of Patrick Butler, 30 years approximately, 71 Westrock Drive, was found lying in an entry at the rear of Westrock Drive. It had gunshot wounds.

It was suggested by local people that the shots which killed him may have come from J.P. Corry’s Timber Yard.

...

- (20) At approximately 1.30 a.m. on Monday the 10th July, 1972, R.U.C. Press Office received a call to the effect that the body of Rev. Noel Fitzpatrick, C.C. was at 80, Springhill Avenue.

A short time later the body of the priest was admitted to the Royal Victoria Hospital. It had gunshot wounds to the throat.

The circumstances of the shooting are not yet clear, but it is thought that the Rev. Fitzpatrick was shot near the junction of Westrock Drive / Springhill Avenue. It is not clear why there was so much delay before the removal of the body to hospital."

10.219 The communications sheet included with the police information sheets for the same period also refers, at 1.40 am, to the Press Office reporting the body of Fr Fitzpatrick lying at Springhill Avenue, deceased. It says he was shot in the neck in the Westrock Drive area; and "believed shot between 9.15 and 9.45 p.m.". The report notes that his body was taken to the RVH at 02.15 via a Knights of Malta Ambulance.

10.220 That information sheet also contains an entry from the Duty Officer in the following terms:

"Deceased. Patrick Butler, 35 yrs., 71, Westrock Drive, shot through left eye found about 2210 hrs. in entry at rear of 84, Westrock Drive.

David McCaffrey, not identified..."

10.221 The RUC Duty Officers' report for the 24 hours period ending at 8.00 am on Tuesday 11 July 1972 includes a short excerpt about the police view of the shooting which was taken in the days shortly afterwards:

"Reference 191/72 (20) Detectives believe, from preliminary investigations, that the Rev Noel Fitzpatrick, was in the company of Patrick Butler (191/72 (14)) in Westrock Drive at about 10 pm and that both were shot by sniper fire from Messrs J P Corry's Timber Yard, on the Springfield Road."

The time of the deaths

10.222 Again, from consideration of a collection of the evidence, I have tried to gain an understanding of the time at which Fr Fitzpatrick, Patrick Butler and David McCafferty were shot. From consideration of the evidence generally, I am satisfied

that Fr Fitzpatrick and Patrick Butler were shot at essentially the same time; with David McCafferty also being shot very close in time to this. I proceed on this basis for the moment. (The findings of the coroner in the original inquest (see paras 7.113 to 7.114) reflect his view to like effect.)

10.223 David McCafferty Snr thought that his son left the house around 9.00 pm, although he could not pinpoint this (particularly when asked about the account from his wife which had suggested 9.30 pm). His original deposition had said 9.15 pm. The shooting is likely to have occurred after this time. Mr McCafferty said that he was told that his son had been shot by two boys who called to the house, which he thought occurred just as it was getting dark. As sunset occurred at 9.58 pm, I assume that this may have happened sometime around or shortly after 10.00 pm. (Mr McCafferty thought the boys called to tell him that David had been shot not long after David had left the house, although he could not be sure about this.) Given that there is evidence of David McCafferty having undertaken a number of activities after leaving his house, and given that it would have taken at least a short time for the two boys to get back to the house to report the shooting, it seems likely – on the basis of this evidence at least – that David McCafferty may have been shot within a rough timeframe of around 9.30 to 10.15 pm (perhaps 9.45 to 10.15 pm, if his mother’s account of the time of his leaving the house is more accurate).

10.224 The ambulance driver Samuel Thompson gave evidence at the original inquest that it would have been about 10.45 pm when they picked up David McCafferty’s body (and he was then dead). In fact, it seems highly likely that the body was picked up sooner than this because the deposition of Dr I Jackson in the original inquest indicated that he examined the body of David McCafferty at 10.40 pm and pronounced him dead at that time on 9 July 1972. I assume that some care would have been taken in trying to give a relatively accurate time in a formal deposition by a doctor confirming pronouncement of life extinct. Assuming the time of 10.40 pm in that deposition to be correct, and allowing time for the body to be transported into the Fosters’ house, from there into an ambulance which arrived at a later point, and from there to the hospital, it seems likely that the latest the shooting could have occurred would have been around 10.20 pm. Since Mr Thompson’s evidence pointed to Martin Dudley being picked up by his ambulance first, it might well be that these timescales point to an earlier time being the latest possible when the shooting of David McCafferty could have occurred.

10.225 In his deposition to the original inquest, Charles Butler indicated that he had last seen Patrick Butler at about 9.00 pm on 9 July 1972. As noted in Chapter 7, the statement forming the basis of this deposition appears to have been taken very shortly afterwards, on 10 July 1972. This suggests that Patrick Butler was killed after 9.00 pm. As there is also evidence of him having undertaken various activities after leaving his house, and it is not clear if he left his house at 9.00 pm or sometime afterwards, I consider his death likely occurred after 9.15 pm at the very earliest.

10.226 In his deposition to the original inquest, Fr Kevin Donnelly said that he went to Mrs Donnelly's house at 10.15 or 10.20 pm on the night that Fr Fitzpatrick was shot and that Fr Fitzpatrick was dead then. It is interesting that these times which were given are quite precise. In light of that, and having been provided very close in time to the events, I consider them likely to be accurate. The evidence suggests that Fr Fitzpatrick's body was taken to the Donnellys' house (by Brian O'Kelly and Anthony Curran) sometime shortly after he was shot, but after some delay because of the difficulty of getting him pulled into the alleyway; and that Fr Donnelly arrived at the house sometime afterwards. (Kate Donnelly, Margaret Simpson and Brian O'Kelly all gave evidence that Fr Donnelly attended at the house, although it is unclear at what time this was. Mr O'Kelly's and Mrs Simpson's evidence seem to place him there sooner than Kate Donnelly's). However, if Fr Donnelly attended the house at 10.15 or 10.20 pm and Fr Fitzpatrick was there and had died by that time, this would point to the shooting occurring no later than around 10.10 pm and possibly a relatively short period before that.

10.227 The radio entry on the Brigade Log detailing the time of various admissions to the RVH puts David McCafferty's admission at 22.45 hours: see the entry at 01.30 on 10 July 1972. In context, the times given there appear to relate to the time of admission, rather than the time of injury or death. The time of 22.45 hours given in respect of David McCafferty is not far off the time of 10.40 pm given in Dr Jackson's deposition referred to above.

10.228 Patrick Butler is recorded in the Brigade Log as being dead at 23.50. Since the pathology evidence is that his death would have been immediate, I think it highly likely that this is the time of admission to the hospital. The deposition of W Wilson, Consultant Surgeon, to the original inquest indicated that Patrick Butler was admitted to the casualty of the RVH at 12.00 midnight on 9 July and was dead on arrival. However, there is also evidence that his body lay in the street for a longer period than that of Fr Fitzpatrick and was later conveyed to hospital in a van. I consider, nonetheless, that Mr Wilson's deposition (along with the content of the radio logs) convincingly contradicts the suggestion that Patrick Butler's body lay out on the street overnight.

10.229 The Brigade Log provides details of Fr Fitzpatrick having been taken to hospital in a Knights of Malta ambulance, with the driver reported to have said that Fr Fitzpatrick had been shot between 21.15 and 21.45 hours (see the entry in the Brigade Log of 02.55 on 10 July 1972, discussed at para 4.187). It is difficult to know where this information came from. It is not included in the evidence of either Patrick or Margaret McClory who were in the ambulance. However, it is likely to have been from someone who had accompanied the body when it was provided to the ambulance staff and who may have had knowledge of the earlier events of the evening, including at least when the body was recovered, before being passed on by the ambulance staff to the medical, police or RMP staff present at the hospital. If reliable, this evidence would push the time of the shootings (or at least Fr Fitzpatrick's) towards the start of the available window.

10.230 Turning back to the civilian witness evidence, Mr Butler Jr thought that Fr Fitzpatrick arrived on the scene about 20 minutes after the firing started and that there was still intermittent shooting going on at that stage. That estimate could, of course, be inaccurate. It seems as though Fr Fitzpatrick may have been shot not very long after he arrived on the scene. However, it is difficult to draw too much from Mr Butler's estimate of this time gap in the absence of a clear indication of when the initial shooting started, or at least when Mr Butler understood this to have occurred. In his evidence he initially thought that Martin Dudley had got into his car about 8.00 pm, with the shooting occurring shortly after that. In later evidence he thought the incidents he was describing were between 8.00/8.30 pm and 9.00 pm. This appeared to me to be impressionistic but, again, might suggest that the shootings in incident 2 occurred towards the start of the possible window which might be established by other evidence. My own view, on the basis of the evidence discussed in Chapter 9, is that the shooting which forms the centrepiece of incident 1 is likely to have commenced between 9.30 and 10.00 pm. This would provide a window for Fr Fitzpatrick's arrival (assuming Mr Butler's estimate was correct) of 9.50 to 10.20 pm, with him being shot relatively soon after this.

10.231 Mary Moore was unclear on timing, other than saying that she knew it was still bright outside and was early evening. (She had suggested in a statement from 2013 that it was around 9.00 pm). This was the time when she heard the shooting and looked out to speak to Kate Donnelly, and shortly afterwards saw that Fr Fitzpatrick had been shot. The estimate given may well be unreliable but it is potentially significant that she indicated that it was still light outside, which would suggest that the shooting happened sometime before 10.00 pm (with sunset at 9.58 pm). I have already mentioned the coroner's note on Mr McMenemy's deposition of the time "10.10 pm". It is unclear precisely what this refers to but, in the context, I consider there to be a good case that it is referring to the time when Mr McMenemy estimated he had come upon the bodies of Fr Fitzpatrick and Patrick Butler.

10.232 I am sceptical of elements of the evidence provided by John O'Donoghue and John Fusco. I discuss this further below. For what it is worth, however, John O'Donoghue's evidence suggested that Fr Fitzpatrick and Patrick Butler were shot shortly before Martin Dudley was being placed into an ambulance (which he purports to have seen). The deposition of Samuel Thompson, discussed in Chapter 9 and above, indicates that they collected an injured man (said to be Joseph Duddy) who was lying beside a car. I consider this likely to have been Martin Dudley with a mistake made in relation to the name. After collecting this person, they went to the area of Corpus Christi Church and two men came out of an alleyway with a stretcher carrying a dead youth, later known to be David McCafferty. (Eyewitness One's account suggests he, i.e. Liam Stone, and his unidentified mate carried David McCafferty's body to the ambulance.) Assuming this ambulance arrived at the RVH for David McCafferty to be examined and pronounced dead at 10.40 pm, it is likely that Martin Dudley was being picked up between, say, 10.10 and 10.20 pm. (It is notable that the Battalion Log records an ambulance having been seen in the

Westrock Drive area in an entry timed at 22.29.) Again, this might point to the shooting of Fr Fitzpatrick and Patrick Butler being sometime around, or shortly after, 10.00 pm. Mr Fusco purported to be an eyewitness of the shooting of Fr Fitzpatrick and Mr Butler and said it was still broad daylight when he saw them. This is corroborative of Mary Moore's evidence and might again point to the shootings having occurred in advance of sunset at 9.58 pm.

10.233 Thomas Reid's evidence was that, having seen John Dougal and Brian Petticrew being shot, which he thought may have been around 8.00 pm when his brother had called him for tea, and having been shot at in Corrigan Park, he went to Brian Muckian's house, stayed there for 15-20 minutes, and then went to the alleyway between the brick houses whilst trying to go home. There, he saw the three bodies outside the Fosters' at 84 Westrock Drive and attempts to retrieve the bodies. This suggests, firstly, that he arrived at that location shortly after the shootings of the three deceased involved in incident 2 (before any of them had been taken into a house); and, secondly, that those shootings occurred within 20 minutes to half an hour or so of the shooting of John Dougal which he had earlier witnessed. I have concerns about the reliability of the time attributed to the initial incident by Mr Reid - which he himself accepted could be mistaken - which are discussed in Chapter 9. However, his evidence does tend to suggest that that incident occurred earlier in the evening whilst it was still bright.

10.234 As noted in Chapter 7, the coroner at the original inquest in 1973 determined the time of Fr Fitzpatrick's death, Patrick Butler's death and David McCafferty's death as 10.00 pm. I consider that likely to be a relatively accurate approximation of the time when they were each shot, although my consideration of the evidence above suggests that it may have been slightly before 10.00 pm and therefore still in daylight. In this regard, I also note that the histories provided in the autopsy reports (see paras 10.202 to 10.205 above) placed the shooting of Fr Fitzpatrick and Patrick Butler around 9.45 pm; and the shooting of David McCafferty having occurred sometime after his handball was interrupted by shooting around 9.30 pm. Although the genesis of this information is unknown, I have already expressed the view that it is relevant that it likely represents an extremely early report by someone sufficiently close to the events to have provided this information to the police or medical authorities when the body arrived at the hospital in advance of postmortem examinations the next day.

10.235 There was a range of evidence which suggested to me that the shootings in incident 1 and those in incident 2 occurred within a short period of time of each other, with those in incident 1 occurring first. This included (i) Patrick Butler's evidence of seeing the car with Martin Dudley and, within a relatively short period, recounting his father having gone with Fr Fitzpatrick; (ii) Martin McShane, on his way home from the community centre, seeing Martin Dudley lying in the road and an ambulance trying to get to him, around the same time as he was told that Fr Fitzpatrick and Patrick Butler had been shot and taken into a local house; (iii) Thomas Reid and Francis Lewsley's evidence that they were shot at in Corrigan Park

around the time when John Dougal was shot, but saw bodies at the Fosters' house after having briefly been to Brian Muckian's; and (iv) John O'Donoghue who described the shootings in incident 2 shortly before Martin Dudley was taken off in an ambulance. There was a clear sense of people still lying in the road near the circle area, and John Dougal lying in the front garden of a bungalow, at a time when (and after) the shootings in incident 2 occurred.

Military evidence potentially relevant to deaths

10.236 I have considered the military evidence and what, if any of it, sheds light on the circumstances of the deaths being addressed within incident 2 in this inquest. As before, no military witnesses who gave oral evidence purported to see or give any direct evidence in relation to these matters. The accounts relied upon by the MoD were those set out in the ciphered statements. Obviously, the case made by the MoD is that all of the content of the ciphered statements needs to be taken into account as a whole and that these shootings (assuming they are referred to in the ciphered statements) are to be seen in the context of a wider assault against soldiers stationed at Corry's Yard. I have taken that into account.

10.237 With the caveat just mentioned, it seemed to me that Soldier A's statement was likely to be that of most relevant because of its contents.

Soldier A's statement

10.238 Mr Vannan noted that Soldier A's description of shooting two persons, the second of whom fell over the man who was on the ground (and both of whom he believed he had killed), correlated with Positions 4 and 5 on the RMP plan, which were at the eastern end of the narrow alleyway between Nos 86 and 108 Westrock Drive. Several civilian witnesses described Fr Fitzpatrick, Patrick Butler and David McCafferty being shot, or their bodies being present after being shot, in the wider open area between Nos 84 and 86 Westrock Drive. The positions described by Soldier A and the areas described by civilians lay, in Mr Vannon's analysis, between 10.9m and 25.6m apart, depending upon which sighting by civilians is used for the purpose of measurement.

10.239 Positions 4 and 5 on the RMP plan represent positions from which gunmen are said to have fired; but they are also marked with an 'X' indicating that they are also locations of fallen gunmen. They are marked at exactly the same place. This position is clearly not exactly where (the preponderance of civilian evidence suggests) the three bodies in this incident were located. However, it is very close by. It is possible that a soldier describing persons at the end of the alleyway between Nos 84 and 86 Westrock Drive may have wrongly identified this as a location at the end of the passageway (between the back of two rows of Springhill flats) between Nos 86 and 108. Moreover, if one assumes that one of the ciphered statements is describing a location where some of those shot in incident 2 were shot, this location is obviously the most proximate. With the exception of another location indicating a

fallen gunman, marked outside the front of 92 Westrock Drive (discussed further below), and possibly Position 8 (at the corner of 62 Westrock Drive), Positions 4 and 5 are the only locations in the RMP plan near the location where all of the civilian evidence suggests the three shootings occurred.

10.240 The key to the RMP plan notes that, at 21.50 hours, a soldier from Position B (towards the western end of the southern elevation of the main wood shed within Corry's) fired four rounds at gunmen in Positions 4 and 5, with two hits. That is to say, the RMP interpreted the ciphered statements as suggesting, or gleaned from their interviews with the soldiers, that two gunmen were successfully shot at this location.

10.241 Turning then to the content of Soldier A's statement, which appears to me to account for this entry on the plan, one sees the following description:

"Shortly after this, I changed my position a further 5-10 yards to my right. I was still located within the open shed at the south of the Wood Yard, but was now offered a better field of vision, enabling me to adopt a right-handed aiming position. On reaching my new position, I immediately located a gunman on the east side of the flats complex, south of my position, to the left of the Corpus Christi Church. This man was dressed in a light coloured shirt and dark trousers or jeans. I believe this man was in possession of an LMG, or something similar. He was aiming his weapon in my direction. Before he had a chance to fire, I fired 2 x 7.62mm rounds at him. I saw him fall backwards to the ground, and was of the opinion that my round had hit him in the chest. This gunman lay still. At this time, a second man came from between the houses and went towards the former gunman. He came from the same alleyway in the flats complex. This man was dressed in dark clothes, and had long, dark hair. He was not in possession of any weapon that I could see. He bent down over his comrade and picked up the LMG. As he began to straighten up, his left side was exposed to me. He was clearly in possession of the weapon, and as he began to back away, I took aim and fired 2 x 7.62 rounds at him. I saw this man fall over his fallen comrade. The two bodies remained where they were, and I believe I killed them both. About 2205 hrs, I fired a further 4 x 7.62 rounds for covering fire for other members of my unit changing positions..."

10.242 This passage does not provide a time, however the key to the RMP plan times the shooting of the two men described at or about this location as 21.50 hours. It is

unclear whether this was from other information available to the RMP or because this fitted in with other times provided in the statement. The latter is quite possible. For instance, these shootings were obviously prior to the provision of further covering fire at 22.05 hours; but also sometime after the immediately preceding incident described in the statement. That incident, which I have concluded on balance in Chapter 9 purports to describe the shooting of John Dougal and Brian Petticrew (albeit there is a reference to the vicinity of 41 Westrock Drive) was said in the statement to be at 21.30 – 21.40 hours. Following that, Soldier A swapped position within the wood yard before describing this shooting of two men. It makes sense that this incident therefore would have occurred around 21.50 (assuming the times in Soldier A's statement are correct); or, put another way, within 10-20 minutes of the earlier shooting of two men which he described.

10.243 The man described as being dressed in a light-coloured shirt and dark trousers or jeans is unlikely, in my view, to refer to either Fr Fitzpatrick (who was not wearing a light shirt and who, it seems, was wearing a black coat or jacket) or to David McCafferty (who was wearing dark clothing). It is possible that it refers to Patrick Butler, who *was* wearing a blue t-shirt and dark suit trousers, as described in the report of the postmortem examination. The second man who came from the alleyway towards the first (who was unarmed at that time) was described as being dressed in dark clothes, with long dark hair. I have already mentioned in Chapter 9 that I consider it unwise to place too much reliance on an assessment of the length of someone's hair when this is viewed from a distance. Conceivably, the description of the second man could have related to, or could have been intended to relate to, Fr Fitzpatrick, who was wearing dark clothing or David McCafferty (who was wearing black trousers, a black sweater and a black anorak). Each of them had dark hair.

10.244 Soldier A saw the first man he described as having fallen backwards. He was "of the opinion" that his round had hit this man in the chest but does not appear to have been sure. (In fact, none of the three deceased in this incident was hit in the chest from the front; although David McCafferty was shot *through* his chest from the back.) This could conceivably have been a reference to Patrick Butler being shot but does not account for the fact that Fr Fitzpatrick was shot at or about the same time. Soldier A specifically said, at the conclusion of his statement, that at no time during the action did he see a priest or any person dressed in any way resembling a priest. It is possible that the description of a man falling backwards and then lying still may have described Patrick Butler. He is certainly likely to have lain still as the pathology evidence suggests that his death would have been immediate. Evidence in relation to his body position could also be understood to support the suggestion that he fell back, with his body positioned closer to No 86 in some witnesses' evidence. In this regard, John O'Donoghue said that Paddy Butler fell backwards into the alleyway; was lying right beside him; and was shaking, but only for a few seconds.

10.245 Soldier A described the second man he shot in this particular incident as coming towards the first man he had shot when he was on the ground; and coming

from the same alleyway between the houses. This accords with some of the civilian evidence describing David McCafferty coming towards the bodies of Fr Fitzpatrick and/or Patrick Butler. This man was described as being dressed in dark clothes (which David McCafferty was) and having long, dark hair. This is much more likely to refer to David McCafferty, whose hair (from the autopsy photographs) appears to be dark and shoulder-length, rather than to Fr Fitzpatrick who had short hair (and considerably shorter hair than John Dougal). Soldier A said that the second man bent down over the first man who had been shot, which again accords with some of the civilian evidence that David McCafferty was bending down trying to recover or move one of the bodies. Soldier A's description of the position of the gunman is interesting, namely that he was beginning to straighten up with his left side exposed. That is to some degree consistent with the pathology evidence of David McCafferty having been shot whilst bending over and with a bullet trajectory travelling *left to right* through his chest.

10.246 Civilian evidence suggests that David McCafferty's body fell near the others but whether or not this could be said to be "over his fallen comrade" is unclear. Soldier A describes the two bodies as remaining where they were; whereas the civilian evidence suggests that Patrick Butler's body remained where it lay for some time, but not the others. Fr Fitzpatrick and David McCafferty's bodies seem to have been moved relatively quickly into nearby houses, potentially because (unlike Patrick Butler) their deaths were not immediate.

10.247 *If* this description relates to the shooting of Patrick Butler and David McCafferty, it suggests that Patrick Butler was in possession of a light machine gun or something similar and aiming it in Soldier A's direction; and that David McCafferty was shot having retrieved this weapon; but that neither person discharged a shot from that weapon. If the above hypothesis is correct – that Soldier A was purporting to describe the shooting of Patrick Butler and David McCafferty – it still leaves the shooting of Fr Fitzpatrick unaccounted for as part of this particular episode. Of course, it is also possible that, in fact, Soldier A was describing the shooting of all three individuals with his two shots; but was unaware that his first shot had struck two individuals. If Patrick Butler's body was, in fact, lying further out into the gap between the flats and the bungalows (as some evidence suggests) and Fr Fitzpatrick's body was more into the alleyway, it is conceivable that Soldier A thought he only struck one man. I think this is unlikely, however, given that the civilian and pathology evidence clearly suggests that Fr Fitzpatrick went or leant out first and in front. Another possibility, of course, is that Soldier A has deliberately omitted anything that could link his actions to the shooting of a priest. (He explicitly stated at the conclusion of his statement that at no time did he see a priest or even anyone dressed in a way resembling a priest.)

The front of 92 Westrock Drive

10.248 The other location nearby which is mentioned in the ciphered statements is 92 Westrock Drive. This was Margaret Norney's house. There is an issue with the

reference to “the *grass* in front of 92 Westrock Drive”. As indicated in civilian evidence, and as is clear from photographic evidence provided to me in the course of the inquest, there was in fact no grass in front of 92 Westrock Drive. That was the paved, alleyway area. I am not persuaded that a huge deal is to be drawn from this potential error. It might well be that a soldier, particularly one with a restricted view of the alleyway, may have wrongly thought that the grass or waste ground forming the back gardens of the bungalows at Nos 54 to 60 extended into the alleyway between Nos 84 and 86. The evidence was that, aside from a small concrete path, those back gardens did stretch across to the Springhill houses. Leaving that matter aside, however, there are other issues with the content of the two relevant statements.

10.249 The statement of Soldier E describes gunmen deploying in different directions from the two cars which had stopped on Westrock Drive and two further armed men seen running from 50 Westrock Drive (one of the Maguires’ bungalows) towards 56 Westrock Drive (the Petticrews’ bungalow). One of these latter two men had an SMG. There was an exchange of fire between Soldier E and this man. Soldier E said that he was the only member of his patrol firing at that time. He was then informed by Soldier A of his unit “that one of the gunmen, located on the grass in front of 92 Westrock Drive had dropped to the ground clutching his chest and crawled out of sight between the flats”. The two soldiers then switched positions.

10.250 I found this portion of the ciphered statements (amongst others) hard to follow. Reading Soldier E’s statement, it looks as though he was told by Soldier A that he (Soldier E) had shot the gunman in front of 92 Westrock Drive. Leaving aside the reliability of the precise addresses given in these statements (which is questionable for reasons discussed in Chapters 7 and 9), this does not sit easily with the content of Soldier E’s *own* statement about where he was firing. In Soldier E’s statement, his first salvo of four aimed shots was at the group of armed men in the vicinity of *the cars*, smashing the windscreen of the Triumph which had been travelling *east* along Westrock Drive. This is not at all in the area of 92 Westrock Drive. He then ducked for cover; and was then told by Soldier A about the gunman having been shot at 92 Westrock Drive.

10.251 Turning then to Soldier A’s statement, the specific location of 92 Westrock Drive (mentioned by Soldier E) is *not* identified. His account of Soldier E shooting a gunman, immediately after having described seeing the yellow Ford Triumph car and hearing a blast of horns, is in the following terms:

“I then saw about three or four gunmen run from behind 49 Westrock Drive. Some of these adopted covering positions in nearby shrubs and bushes, whilst one of them ran into the Westrock Drive Flats.

Although I did not engage any gunmen myself at this stage, I saw and heard Soldier “E”, located in the main OP

at the southern end of the Yard, return four rounds. I saw that one of these rounds connected with the gunman running into the Westrock Flats. The man appeared to have been hit in the chest, as he clutched that region of his body and fell to the ground, after which, he tried to crawl into a house in Westrock Drive. Whilst attempting to do so, I saw one of his companions drag him into an alleyway amongst the flats immediately south of Westrock Drive."

10.252 As noted above, this account does not refer to 92 Westrock Drive but *could* be referring to the alleyway close to that location. It may or may not be describing the same incident which Soldier E recalls as having been communicated to him by Soldier A at the time.

10.253 Soldier A described seeing gunmen run from behind 49 Westrock Drive. (It is unclear where they may have been previously; and possible they could have come from a car which was out of his view behind 49 Westrock Drive, although he himself does not mention such a car.) One of these gunmen ran "into the Westrock Drive Flats". It is unclear whether this was the flats to the north or south of Westrock Drive, although the last sentence quoted above clearly suggests that it was the flats to the south. Soldier A said he did not engage any of the gunmen himself at this stage but saw and heard Soldier E returning four rounds. He said that he (Soldier A) "saw that one of *these rounds* connected with the gunman running into the Westrock Flats" (my emphasis). However, this appears to me to contradict Soldier E's account that he was the only person in the patrol shooting at this stage and his only shots (before switching position with Soldier A) were fired towards a different location.

10.254 Soldier A's account does, however, suggest that Soldier E may have shot a third person (identified in the ciphered statements as a gunman) at or about the location of the alleyway in which 92 Westrock Drive was located before he (Soldier A) shot two further persons at this location subsequent to swapping positions with Soldier E. On Soldier A's account, this person appears to have been running into the flats complex when shot. He is described as having been hit "in the chest", although it seems likely that this would have been in the back if running for cover in the direction Soldier A described. He was then dragged into the alleyway. On the RMP plan, this location (the alleyway outside 92 Westrock Drive) is marked 'X' as a known location of a fallen gunman, but not marked with a number as being a position from which a gunman fired.

Position 8

10.255 The other position highlighted on the RMP plan which is relatively close to the Fosters' house at 84 Westrock Drive is the flat on the corner at 62 Westrock Drive. Position 8 on the RMP plan is at the very corner of No 62 (on the corner of Westrock Drive and the pathway between the Springhill Flats and the back of the row of bungalows containing Nos 54, 56, 58 and 60). This is also said to be a position from

which a gunman fired. In the key, it is suggested that a soldier fired two rounds at this position at 22.00 hours with one possible hit. I consider this is likely to be indicated from the following portion of Soldier C's statement:

"About 2200 hrs 9 Jul 72, I observed a male figure at an open window in an upstairs window of a block of flats. The block of flats is one of six blocks, located along Westrock Drive. The male's location was in No 68, a block positioned on the north-eastern corner of the blocks of flats. He was opposite the front wall of No 60, Westrock Drive.

On continuing observation, the range from the male's location to mine being about 50-75 yards, I saw the male, dressed in a dark suit, short hair; I could not see his facial features. The male moved to the open window and poked a long stick-shaped object through it. I recognised it to be a machine gun similar to a Thompson sub machine gun. He fired to long bursts directed at the wood shed. I did not see where his rounds struck.

I cocked my rifle and fired 2 x 7.62mm aimed shots. They struck the wall slightly left of the window. The gunman then disappeared from the window, the room being in darkness. He did not re-appear. I continued to keep observation of the area but I did not see the gunman again."

10.256 On this occasion, I believe the author of the RMP map and plan has corrected the reference in Soldier C's statement to what is more likely to have been the correct house number, namely No 62, rather than No 68 as mentioned in the statement itself. (I noted this issue myself at para 4.71 in Chapter 4. It was also identified by Mr Vannan.) This adds a further element of confusion in terms of accurately assessing what is described in the ciphered statements. It supports the contention that mistakes could be, and were, made when some house numbers were referenced in the ciphered statements. However, it also illustrates that, in at least this instance, the author of the RMP plan and legend corrected this when it was identified.

10.257 In light of the civilian evidence which I have heard about the location of Fr Fitzpatrick, Patrick Butler and David McCafferty when they were shot and/or the location of their bodies after they were shot, I do not consider that this account from the ciphered statements (albeit at a location in the same vicinity) is likely to relate in any way to any of these three deceased. It relates to a soldier shooting towards a man in an upstairs window in circumstances where he did not believe he hit anyone.

Army radio logs

10.258 A very striking feature in relation to the deaths in incident 2 is that there is, as far as I can discern, no record or description whatever of the 'hits' being claimed in radio communications which relate to these shootings.

10.259 It is generally concerning, and suspicious in my view, that there is no record in the Battalion Log of action at or about the Corry's Yard OP from 21.00 (when shots from Corpus Christi were recorded) until 22.03 when there is a report of machine-gun fire. On the basis of the evidence analysed above and in Chapter 9, I consider it likely that the shooting of the deceased in this incident occurred around or shortly before 10.00 pm; and the shooting of John Dougal occurred between 9.30 and 10.00 pm, sometime before the shootings in incident 2, and quite probably around 9.50 pm. Notwithstanding this, there is no record of 'hits' being claimed in the army radio logs - or those which are still available - until 22.24.

10.260 At that point, there are three hits claimed and it is noted that one man lay for long time before being dragged away. The initial part of the serial entry refers to a machine gun and a number of gunmen firing in the area, with a gunman engaged. It is difficult to know what exactly this is referring to; but it seems most naturally to refer to the shooting of Martin Dudley, Brian Petticrew and John Dougal. John Dougal lay for some time before being dragged away. It is unlikely in my view to refer to the shooting of Fr Fitzpatrick, Patrick Butler and David McCafferty since the civilian evidence suggests that Fr Fitzpatrick and David McCafferty were moved quickly and, although Patrick Butler's body lay for much longer, it had *not* been dragged away at this point. (Patrick Butler seems to have been removed directly to the hospital in a van, arriving there around 11.50 pm.) Moreover, the equivalent entry in the Brigade Log at 22.28, in which three hits are claimed, refers to a gunman being seen to lie in the road. This would most naturally refer to Martin Dudley; although could also conceivably refer to John Dougal if he was still considered to be lying near the circle area.

10.261 The next, and only further, recorded hit from C Company at the Corry's Yard location that evening is at 22.56, when it is noted that a gunman was hit near Corpus Christi Church by Corry's OP. It is unclear who this person was who was hit. Again, however, I do not consider that it can relate to any of the deceased in incident 2 since they were shot at a much earlier point. By this time, according to Samuel Thompson and Dr Jackson's depositions, David McCafferty had already been transported to hospital and pronounced dead.

10.262 The result is that no material assistance can be gained from the army radio logs in relation to the deaths of the three deceased in this incident. Assuming - as I have found - that these deaths were caused by fire from soldiers stationed at Corry's Yard, one would have expected a record of this to be found in the army radio logs, which were clearly designed to provide (a) a record of significant occurrences, as contemporaneously as possible and (b) a record of rounds fired, rounds discharged

at the army, and any hits claims, as accurately as possible. The absence of such reporting in relation to these deaths is a matter of concern and gives rise to obvious suspicion that the soldiers on the ground may have been concerned about passing back certain details to Company Command (or, alternatively, that it may have been concerned about passing those details further up the chain of command).

SM100's evidence

10.263 SM100 gave some evidence relating to Fr Fitzpatrick. He said that Fr Fitzpatrick was his priest and provided him with assistance with some matters to which he needed to attend. SM100 was very upset about Fr Fitzpatrick's death, since he held him in high regard. (Indeed, he became very upset whilst discussing this during the interview with my investigator.) His evidence was that Fr Fitzpatrick had a very strong sense of duty and, whilst ministering at Corpus Christi, was also prepared to minister on the army base. SM100 thought this must have taken "some force of character" as he assumed this would not have been well received within Fr Fitzpatrick's own community.

10.264 In the typed note of the HET interview with SM100 in January 2013, the HET officers have recorded the following story which circulated in the platoon in the following days (with this text set out as a quotation in italics):

"Father Fitzpatrick was killed following a gunman being hit by a shot fired by a soldier from 7 Platoon. The gunman lay injured and his gun was on the ground. Soldiers always assumed that another gunman would try and recover the gun not just for future use but also to make the allegation that an unarmed innocent person had been hit by indiscriminate firing by soldiers. A soldier called Mick Felmingham therefore took aim at the rifle laying on the ground and waited for another gunman to try to recover it. It was felt that the IRA gunmen asked the priest to recover the gun assuming the British army wouldn't shoot a catholic priest. I don't know whether Felmingham realised it was a priest handling the gun. After Northern Ireland the regiment was based in Hong Kong and whilst there Felmingham fell off a high roof in the wind and died. The talk at the time was that God had punished him for the shooting of a Catholic priest."

10.265 Strangely, in the handwritten interview notes (upon which the typed note was presumably based), this account does not appear in the same way. There is reference to a priest giving the last rites to a man on the ground; that the gun would disappear so that it was an unarmed man; and that the priest handed the gun over and they got shot. The handwritten notes indicated that Felmingham was guarding or watching them, waiting for somebody to recover the gun.

SM13

10.266 SM13 gave evidence about what he believed he heard, likely in the Ops Room, in the hours after the shootings. He was also questioned about a note made during the course of his interview with HET officers to the effect that the priest had not “knowingly” been shot. He believed he had been told that Kgn Felmingham had shot Fr Fitzpatrick. He made reference to the range as being about 150m, although it could have been less. His understanding was that the priest had come to assist John Dougal (although he believed that John Dougal had been at Corrigan Park) to give him the last rites. The soldier *assumed* it was another gunman, hence why he had indicated that he did not knowingly shoot a priest. He said that the soldier could see a rifle from that distance but could not see he was a priest wearing a collar from up on top of the woodpiles.

SM189 and what SM223 said

10.267 In Chapter 4, I have addressed the issue of what SM189 believed SM223 had said (but which SM223 denies having said). In short, SM79 (through his brother) thought that SM189 had expressed the view that he (SM189) had seen SM223 firing at a sniper. The suggestion was really that SM189 had seen SM223 firing at a sniper from Corry’s Yard on 9 July 1972. SM189 then addressed this himself in his evidence. He accepted that he had been in Corry’s Yard on the night in question as part of the QRF. He also indicated that he had a vague memory of a rumour that a priest was helping the IRA by hiding guns at Corpus Christi. He asserted his privilege against self-incrimination as to his actions at the wood yard on the night; but denied that he was one of the ciphered soldiers. As to the content of any discussion with SM79’s brother, SM189 disagreed with SM79’s version. He said he did *not* say that he had witnessed SM223 firing his weapon at Corry’s Yard. He had never witnessed SM223 firing at a sniper or indeed anyone else during his service in Northern Ireland. However, he accepted that he *had* said that SM223 had told him he had seen a priest and two gunmen at Corpus Christi Church. He presumed, given the details of which he was later aware, that this must relate to the events of 9 July 1972. As to when and how he knew this, he again asserted his privilege. He did not recall SM223 saying or suggesting that the priest was a gunman.

10.268 Albeit in different terms from what SM79 had suggested, SM189 had still formed the view, on the basis of what he said SM223 had told him, that SM223 had seen a priest (on 9 July 1972) along with two gunmen. For his part, SM223 denied being at Corry’s Yard on 9 July 1972 in his evidence. Moreover, he denied ever having said what SM189 suggested. His evidence was that he never reported seeing a priest and gunmen as he had not seen it. He could not explain why SM189 made this claim but felt it stemmed from confusion.

Discussion of particular aspects of the evidence

10.269 I have found the circumstances of Fr Fitzpatrick's and Patrick Butler's deaths easier to resolve than those of the David McCafferty's. They are all plainly linked. However, it is convenient to deal initially with the shooting of Fr Fitzpatrick and Patrick Butler who essentially come as a pair.

Whether, how and why Fr Fitzpatrick and Patrick Butler joined forces

10.270 I am satisfied that Fr Fitzpatrick and Patrick Butler were with each other at the time that they were each shot. There is clear evidence of that from a variety of civilians who saw them shortly before, at, and/or immediately after the time of their being shot. Moreover, as discussed in more detail below, on the balance of probabilities I consider that they were shot and ultimately killed by the same bullet.

10.271 There is a variety of evidence, some of which may be conflicting, as to how Fr Fitzpatrick and Patrick Butler first came to be together that night. On Patrick Butler Jr's evidence, Fr Fitzpatrick came to their house after Martin Dudley had been shot and, at that time, his father joined Fr Fitzpatrick. On other evidence, Patrick Butler went from his house to fetch the priest from Corpus Christi Church. Yet other evidence suggests that they may simply have come upon each other after Patrick Butler had gone in search of a priest or was in the company of some nuns.

10.272 I do not feel that it is necessary to resolve this issue one way or another. I am comfortably satisfied on the balance of probabilities that Patrick Butler and Fr Fitzpatrick were together at the time of their deaths; that Fr Fitzpatrick was seeking to assist the dead, dying or wounded; and that, in turn, Mr Butler was seeking to assist the priest in finding or getting to such persons. Precisely how that came about is not, in my view, a central issue in this inquest. However, insofar as relevant, I would make the following observations.

10.273 Part of the established community narrative appears to be that Mr Butler went to fetch a priest (or Fr Fitzpatrick in particular). Mary McVeigh's evidence is perhaps the clearest example of this, suggesting that Mr Butler passed her window going to Corpus Christi and later passed it again having fetched Fr Fitzpatrick from the church. Since her evidence was that he came down the passageway past her front door, it suggests Mr Butler was going from his own house to fetch the priest; and then emerged with the priest and some nuns in tow. Brian Muckian's deposition indicated that he saw Mr Butler at his (Mr Butler's) house and that he went to get a priest. That would have been an understandable reaction in the circumstances, particularly if, as Mr Macklin's deposition stated, one of the injured nearby had been calling out for a priest.

10.274 Other evidence suggests that Mr Butler was in the company of some nuns *before* going to fetch Fr Fitzpatrick. Robert Russell's evidence was that he saw Mr Butler with two nuns at the end of a passageway between the flats from his position

at the Petticrews' bungalow. Mr Butler then left and later came back with Fr Fitzpatrick. (John O'Donoghue's evidence was also that he saw Patrick Butler at the corner of the alleyway and that Mr Butler *then* went to get a priest). Mr Macklin's deposition recounted seeing Mr Butler at the bottom of a passageway opposite his (Mr Butler's) house again with some nuns. On his evidence, he sent Fr Fitzpatrick down towards them. That version also finds some support in the Springhill Massacre booklet, in which Margaret Butler described being told by Jim Moore that he had last seen Patrick Butler going down the passageway with two nuns. Gerard McMenemy's deposition likewise describes seeing Mr Butler across the street from his house with two nuns. He then later saw him with Fr Fitzpatrick. This would make sense if the nuns had encountered Mr Butler at his house on their way down into Springhill and Westrock from their house in Springhill Avenue.

10.275 In contrast, Patrick Butler's evidence was that Fr Fitzpatrick came to his house, where his father was, and Patrick Butler Sr then agreed to go with Fr Fitzpatrick to help. (Patrick Butler's evidence that his father was sleeping at this stage after having been at the clubhouse may be at odds with the evidence of his uncle, Charles Butler, depending on timings, since Charles Butler said that he had last seen his brother Patrick at 9.00 pm when he left his house after visiting him.) Patrick Butler Jr's version that Fr Fitzpatrick came to his father may also find some support in the Springhill Massacre booklet in the account of Eyewitness One which records Fr Fitzpatrick arriving in a car and parking at the shops. It is quite possible that Fr Fitzpatrick may have arrived outside the Butlers' house, since it appears to have been a place where people congregated after the shooting began (probably because of its proximity to and viewpoint towards Westrock Drive but also being sheltered from potential shooting from Corry's Yard). Jacqueline Butler is quoted in the Anne Cadwallader article reproduced in the 1999 version of the Springhill Massacre booklet as saying that her mother told her that Fr Fitzpatrick had come to the door and asked if Paddy could show him the way as someone had been hurt and needed the last rites. I think that version of events is also likely to be too simplistic.

10.276 I do not feel that this issue can be clearly resolved or that it needs to be. However, the most likely explanation for the differing accounts, in my view, is that Patrick Butler did go in search of a priest; and that he either did so with some nuns from their house of Springhill Avenue who had come on the scene or, having done so, fell into their company. I think it likely that Fr Fitzpatrick arrived independently and spoke to those gathered at the Butlers' house (accounting for Mr Butler Jr's memory) and then he and Patrick Butler joined company, either there or in the alleyway area at the bottom of the passageway opposite Mr Butler's home. If they met otherwise than at the Butler's home, it is quite possible they went back up to Westrock Drive to try to cross to the injured near the car at the circle area before thinking better of it and going back down to the alleyway between the flats. It is impossible to know at this remove.

10.277 I think it unlikely that, in fact, Mary McVeigh saw the sequence of events precisely as she recalled, namely Patrick Butler and David McCafferty fetching Fr

Fitzpatrick directly from Corpus Christi and going straight to the end of the alleyway where they were shot. Other evidence suggests that the actual sequence of events was less linear and more chaotic than this. I also take into account the statement in Eyewitness One's account that he spoke to Mary McVeigh after the shootings and she had been somewhat oblivious to what had been going on. I believe it likely that she did see some of those concerned going past her window at some point. Indeed, it is likely that Patrick Butler may have gone to Corpus Christi in search of a priest, which would be entirely natural. It is quite possible that Fr Fitzpatrick could have run to the church if he needed to retrieve anything there for administration of the sacraments involved in the giving of the last rites. However, Patrick Butler running to the church with David McCafferty and returning in the company of Fr Fitzpatrick and the nuns is too neat a narrative to fit with the other evidence available. I suspect it may have been Mrs McVeigh's genuine belief but not a representation of what she actually saw at the time.

10.278 Nonetheless, as stated above, I am satisfied that Fr Fitzpatrick and Patrick Butler were together when they met their deaths and had been together in the few minutes before this. In addition to the evidence mentioned above, Kate Donnelly saw Fr Fitzpatrick and Patrick Butler go past her window walking towards the bungalows. Her sister, Margaret Donnelly (Simpson), also saw them walk past the same window, although she could not remember in which direction. Brian O'Kelly saw Fr Fitzpatrick and Patrick Butler running from the direction of the church (from the area where the posts were in the alleyway). John Fusco purported to see Mr Butler and Fr Fitzpatrick hurrying along to the last house on the block. Teresa McShane described looking back from the Petticrews' bungalow and seeing Fr Fitzpatrick and another adult male (likely to be Patrick Butler) who she understood to be together.

10.279 The clear weight of the evidence is that Mr Butler was with the priest and assisting him, or seeking to assist him, at the time of his shooting. Mr Macklin's deposition and Mr Muckian's deposition both suggest that Patrick Butler went to get the priest in light of persons lying dead or injured. Mr McMenemy's deposition is also consistent with that, although not explicit. Mr Butler was then seen with the priest shortly before his death by a variety of witnesses including Brian Muckian, Gerard McMenemy, Mary McVeigh, Kate Donnelly, Margaret Simpson, Teresa McShane, Brian O'Kelly, John O'Donoghue, John Fusco and Robert Russell. Although I have some concerns about the honesty or reliability of a number of these witnesses on a number of points, the civilian evidence collectively is very strong that Patrick Butler and Fr Fitzpatrick were together very shortly before they were each shot.

10.280 This includes the evidence of a number of persons who were apparently direct eyewitnesses of the actual shooting. Brian O'Kelly, Brian Muckian, John O'Donoghue, John Fusco and Robert Russell all place Fr Fitzpatrick and Patrick Butler beside or very close to each other at the time when they were actually shot. I consider Brian O'Kelly's evidence reliable on this issue and have no reason to doubt

what was said in Brian Muckian's deposition in relation to it. Notwithstanding concerns about the evidence of some of the other eyewitnesses mentioned above, I consider their evidence corroborative of the fact that Patrick Butler and Fr Fitzpatrick were together and acting in concert at the time when they were each shot.

10.281 In any event, I am satisfied that, in light of shooting which had occurred earlier and injuries sustained by others, Mr Butler was in the company of Fr Fitzpatrick who was seeking to minister to the dead, dying or injured; and that Mr Butler was seeking to assist him in some way in that task. Whether and if so how David McCafferty came to be in the company of the two men is a more complicated question, to which I return below.

Were Fr Fitzpatrick and Patrick Butler killed by the same bullet?

10.282 There has been a persistent suggestion down through the years that Fr Fitzpatrick and Patrick Butler were struck by the same bullet. That proposition was supported by the direct evidence of Brian O'Kelly, who I believe was very close to Fr Fitzpatrick when he was shot. He commented that Fr Fitzpatrick and Patrick Butler fell at the same time. John O'Donoghue's evidence was to similar effect, that both men fell at the same time; as was that of John Fusco, describing both men 'crumpling' to the ground at or about the time he heard a shot ring out. Robert Russell essentially described both men being hit with the same bullet. His account in the Springhill Massacre booklet had described that "the two of them looked out simultaneously and at that moment a bullet hit the priest, went through him and hit Paddy Butler in the face...". Brian Muckian's deposition from the original inquest also indicated that at the time of these deaths there were only two shots but all three men (Fr Fitzpatrick, Patrick Butler and David McCafferty) went down, suggesting that two of them were likely to have been killed by the same bullet.

10.283 On the basis of the expert evidence provided by Prof Crane and Ms Kiernan discussed in Chapter 8, together with the other evidence received, I consider it more likely than not that the accounts of Fr Fitzpatrick and Patrick Butler being struck with the same bullet are correct. The wound ballistics support the conclusion that a stable, high velocity bullet struck Fr Fitzpatrick directly; that it was destabilised as it passed through his head (and, in particular, as it came into contact with teeth and spine); and that this destabilised bullet (or a fragment of it) then struck Mr Butler, causing the irregular entry wound to his head. The entrance wound on Mr Butler's head was atypical in shape. The destabilised bullet is an unusual feature in relation to the deaths which are at issue in these proceedings. This expert evidence, along with the civilian eyewitness evidence I heard, persuaded me that it was more likely than not that Fr Fitzpatrick and Patrick Butler were indeed struck and killed by the same bullet.

Was Fr Fitzpatrick or Patrick Butler armed?

10.284 Kate Donnelly's evidence was that when she saw Fr Fitzpatrick and Patrick Butler walking past her house towards the bungalows, they were unarmed. She appears to have had a good view and her evidence was credible on this point. She heard that Fr Fitzpatrick had been shot very shortly after this. Margaret Simpson also saw them at some point shortly before their deaths; and there was nothing in her evidence to suggest that they were armed.

10.285 If I am wrong in my assessment above that Mary McVeigh did not see the three deceased in the way in which she described, and she did in fact do so, her evidence would be very powerful evidence in support of the proposition that none of the three were armed. Her evidence was that none of those she saw was armed. Her version of events was plausible that, having heard and seen Patrick Butler run past her house, she watched and later saw him returning past her window. It was also plausible that she then stepped away and only looked out again, having opened her window, after she heard further shots on her evidence or, at least, had been alerted to some commotion outside (as Eyewitness One described). Although I have doubts about the simplistic nature of the narrative she presented of Patrick Butler fetching Fr Fitzpatrick, I am prepared to accept (and think it likely) that she did see one or possibly both of them through her window whilst watching television in her living room; and that nothing she saw piqued her attention. Had any of the men been armed, it is much more likely that she would have paid attention to their actions and continued to watch them as they went up the alleyway. The fact that she did not – and only returned to look out after some shootings had occurred – appeared to me to lend weight to her suggestion that whoever she saw was unarmed. In answer to a question from Mr McIlroy, Mrs McVeigh indicated she also did not see any weapons on the ground when she saw Patrick Butler's body. I consider her evidence gives at least some support to that of the Donnelly sisters.

10.286 No other civilian witness, either now or in the original inquest, gave any evidence suggesting that Fr Fitzpatrick or Patrick Butler was armed at any point. Brian O'Kelly's evidence was that he saw each of the deceased in this incident around the time of their shooting and there was no suggestion in his evidence that any of them was armed. To like effect, Billy Macklin saw both Patrick Butler and Fr Fitzpatrick shortly before they were shot and there is no mention or suggestion of either of them being armed. Teresa McShane did not believe them to be armed when she saw them looking back over from the Petticrews' bungalow. A variety of other civilian witnesses who purported to have seen Fr Fitzpatrick and Patrick Butler (and, in some cases, David McCafferty also) further indicated that they did not see any gunmen. This included John O'Donoghue, John Fusco and Robert Russell.

10.287 In light of all of the evidence given relating to Fr Fitzpatrick and Mr Butler, I also consider it inherently implausible that either of them would have been armed or engaged in any armed attack upon the army.

10.288 Patrick Butler's evidence about his father was that the whole family had no involvement with the Republican movement at all. On the contrary, his family had had a long involvement with the British Army, with his grandfather having fought in the First World War; his great uncle having been a paratrooper in the Second World War; and another family member still serving with the British Army. He said it was a slight on the family name that it was suggested after the incident that his father was a known terrorist. There is nothing in any intelligence or otherwise to support the suggestion that Mr Butler was involved, or likely to be involved, in any form of paramilitary activity (see para 6.110). A range of evidence I heard about his work, his nature and his character point away from this suggestion. He had been out for a drink earlier that day (as the toxicology results carried out on his body confirm) and seems to have returned home for a Sunday afternoon snooze. As noted above, I am satisfied that, at the relevant time, he was simply seeking to assist the priest in ministering to the dead or injured. As discussed further below, he may also have been trying to protect David McCafferty in some way at the time of his death.

10.289 Similarly, there is nothing to suggest that Fr Fitzpatrick was likely to be armed or would have been intent on attacking the army or assisting in any such endeavour. Aside from being a man of the cloth (which is clearly relevant but, of itself, would not be determinative) the other evidence I heard on the issue, including that of a number of military witnesses, suggested that he was not at all bitter or sectarian in his outlook. That includes the evidence of SM100 which is discussed above. SM13 also gave evidence that he knew Fr Fitzpatrick well. He said that he was a very nice man and he recalled having seen him the day before he was shot. Similarly, SM79 gave evidence that Fr Fitzpatrick was "a very nice guy and friendly to us". He had objected to the notion that Fr Fitzpatrick would have allowed the church to be used to facilitate gunmen shooting at the army; and went on to say he would have objected or complained at the time if he had known that Fr Fitzpatrick had been shot. This picture is consistent with the content of the letter from Major Redwood of 1 Battalion KSOB to Canon Murphy following the death of Fr Fitzpatrick, which is referred to in Chapter 1 (see para 1.26).

10.290 One document contained within the PSNI sensitive disclosure contained an allegation that Fr Fitzpatrick was a well-known member of the OIRA. I have discussed this in para 6.109 of Chapter 6. It was amongst HET papers but does not appear to represent intelligence received through official means; is ungraded; and is entirely unsupported by other intelligence reporting, information or evidence. I consider it should be given no weight in all of the circumstances. I also note that this is inconsistent with the position adopted by the Ministry of Home Affairs in the original inquest to the effect that it could safely be assumed that Fr Fitzpatrick was engaged in humanitarian activities (see para 7.122).

10.291 I am satisfied that neither Fr Fitzpatrick nor Patrick Butler was armed when they stepped out from the corner of 84 Westrock Drive and were shot. I deal separately below with the suggestion that one or other of them – but particularly Fr Fitzpatrick – may have been in the course of retrieving a weapon, or may have

retrieved a weapon, from someone else who had already been shot at the time when they were themselves shot.

What were Fr Fitzpatrick and Patrick Butler doing when shot?

10.292 There is a variety of evidence about precisely how Fr Fitzpatrick and Patrick Butler came to be shot but, again, the civilian evidence on this has a number of strong, consistent themes. First, they were unarmed, as noted above. Second, they were sheltering from fire at the corner of the Fosters' house, 84 Westrock Drive. Third, they were trying to reach persons who were injured or dying. Fourth, they were cautiously looking around the corner because of the shooting which was occurring at that time. Fifth, they were shot simultaneously or very close in time almost as soon as they looked around the corner or stepped out from the cover of the Fosters' home.

10.293 I have already indicated above that the combined effect of the eyewitness evidence and the pathology evidence leads me to conclude that Fr Fitzpatrick and Patrick Butler were shot by the same bullet. There was a variety of eyewitness evidence in relation to the shooting, particularly from Brian O'Kelly who (I accept) was very close indeed to the two men when they were shot; and from Robert Russell who (I believe) witnessed the shooting from a short distance away at the side door of the Petticrews' bungalow. The evidence seems to me to clearly indicate that Fr Fitzpatrick was to Mr Butler's left and closer to Corry's Yard, with Patrick Butler to his right and possibly slightly behind. The preponderance of evidence as to the position of the bodies after the men were shot also indicates that Patrick Butler's body was further to the right (as one looked from the alleyway across to the Petticrews' bungalow) than that of Fr Fitzpatrick, i.e. slightly further to the south.

10.294 I consider it more likely than not that the two men stepped out from cover and Fr Fitzpatrick looked to the left towards Corry's Yard, whilst Mr Butler looked to the right down towards Corrigan Park, explaining their relative positioning when the bullet struck the left cheek of Fr Fitzpatrick's face and the back of Mr Butler's head. Robert Russell's account in the Springhill Massacre booklet suggested that the two men "looked out simultaneously". It is possible that Mr Butler was checking to see whether there was any civilian fire being directed from Corrigan Park up towards Corry's Yard before he and Fr Fitzpatrick crossed over to the bungalows; but it is very difficult to say what he was looking at. Nonetheless, the pathology evidence would suggest that, as they looked or stepped out, Fr Fitzpatrick looked to the left (towards Corry's Yard) and Patrick Butler looked to the right (towards Corrigan Park).

10.295 I consider it likely that the two men stepped out from cover, rather than simply putting their heads around the corner because of the positioning of their bodies after they were shot. In particular, the evidence suggests that it was difficult to pull their bodies back into the alleyway without those seeking to do so being exposed to potential further shots from Corry's Yard. Stepping out from behind the

cover of 84 Westrock Drive would support the view that they were seeking to cross to the bungalows in or near which those injured in incident 1 were lying.

What was David McCafferty doing and was he armed?

10.296 The question of whether, and if so how, David McCafferty came to be in the company of these two others, and what he was doing at the time, is more difficult for a number of reasons. There is a paucity of evidence in terms of witnesses who purport to have seen him, including seeing him when actually being shot.

10.297 There is some evidence that David McCafferty was in the immediate company of Fr Fitzpatrick and Patrick Butler before being shot. Mary McVeigh purported to see David McCafferty going past her window *towards* Corpus Christi Church with Patrick Butler and then returning shortly afterwards with Patrick Butler, Fr Fitzpatrick and some nuns. This suggestion has some support from what John Fusco says he was told by others in the Norneys' house, namely that David McCafferty had gone to get a priest. However, I do not consider John Fusco's evidence in relation to that particularly reliable. I have concerns about his evidence in general; but it is also hearsay evidence from unidentified persons with no indication of how or why they formed that view. I consider that evidence attracts little weight. However, Brian Muckian's deposition also supports the suggestion that the three individuals were together. His evidence was that he looked back from the bungalows and saw Fr Fitzpatrick, Patrick Butler and the boy McCafferty coming running towards the opening. When they came to the end of the Fosters' house two further shots rang out and the three of them went down. It is quite possible that the three individuals were together at some time or times, although other evidence suggests that they were not necessarily together as Mr Muckian describes immediately before they were shot.

10.298 In contrast, Kate Donnelly, Margaret Simpson and John Fusco only purported to see Fr Fitzpatrick and Patrick Butler going towards the Fosters' house, with no mention of David McCafferty. It is possible that they may have forgotten him, or that he followed behind (either on his own or with some nuns) and went unnoticed. However, this evidence suggests that David McCafferty was not in train with the other two when going to the corner of the alleyway at the Fosters' house.

10.299 Brian O'Kelly also saw Fr Fitzpatrick and Patrick Butler together but described David McCafferty coming from a different location, to the right, when he was shot. He too did not support the view that Fr Fitzpatrick, Patrick Butler and David McCafferty were all together and acting in concert immediately before the shootings. In his account at the St Aidan's Inquiry, Mr O'Kelly does not appear to have mentioned David McCafferty's shooting at all. However, his description of it in evidence in this inquest chimed with Robert Russell's evidence that David McCafferty ran over after Fr Fitzpatrick was shot. In his account in the booklet, Robert Russell had described the initial two shootings and then said Dee McCafferty "came along" and tried to help the priest. John Fusco also did not purport to see

David McCafferty when he saw Fr Fitzpatrick and Patrick Butler being shot, which again appears to support the suggestion that he was in a different area away from them at that point. The histories in the autopsies, discussed above, also place Patrick Butler and Fr Fitzpatrick together with no mention of David McCafferty, save that he is said to have “run towards” Fr Fitzpatrick after he was shot.

10.300 The position is also somewhat unclear as to what David McCafferty was doing in the 30 minutes or so before he was shot after leaving his house. His father said that he left with other boys; and his mother’s account said that he was out with Paddy Flynn and Bobby Purdy. (It is unclear whether Paddy Flynn was in any way connected to Harry Flynn who also featured in evidence in the inquest.) However, in a meeting with the HET some years later, Mr McCafferty Snr had expressed the view that David had left around 7.00 pm and was playing handball with others, Charlie Butler and Dermott Flynn. (It is possible that some or all of these boys may have joined in the handball game Patrick Butler was playing with Joe Heath.) Gerard Kelly’s evidence, assuming it is reliable, is perhaps of the most assistance. He said that he met David McCafferty on his own. The history in his autopsy report said that David McCafferty had been playing handball and then assisted in getting nuns to safety. Gerard Kelly’s evidence does not necessarily support this. Sometime before being shot, Gerard Kelly said that David McCafferty pushed a van out from beside the Fosters’ house to provide cover along with Harry Flynn. Mr Kelly’s evidence was then of little assistance as to what David McCafferty did or where he went after Gerard Kelly had left him in the vicinity of the Fosters’ house before he (Kelly) went into the Petticrews. Returning to Nora McCafferty’s account, she said she was told that he was with Fr Fitzpatrick and some nuns and got the nuns into the house. That is supported by Robert Russell’s account in booklet, which said that “Paddy and Dee McCafferty brought the two nuns back to their house in Springhill and came back with the priest Fr. Fitzpatrick.”

10.301 I am satisfied, on the basis of the evidence and information discussed in Chapter 6, that David McCafferty was a member of, and involved in, one of the branches of Na Fianna Éireann. It seems fairly clear that this was the organisation which was the junior wing of the Official IRA, rather than of the Provisional IRA. There are a number of reasons why I have reached this conclusion.

10.302 It is a compelling fact, in my view, that (as acknowledged by both his sister and father in their evidence) David McCafferty was given a funeral with some form of paramilitary trappings which was organised, at least in part, by persons other than his family. This is unlikely to have occurred unless David McCafferty was a member of the organisation. It is also highly significant that the account published on behalf of his mother in the Springhill Massacre booklet specifically states that David McCafferty was “a member of the Official IRA Junior Wing”. The conclusion is reinforced by the content of several of the death notices published in local newspapers in respect of David McCafferty’s death, also discussed in Chapter 6. This specifically included a notice purporting to be from at least one company of the Official IRA (F Company, 2nd Battalion, Ballymurphy) describing David as a

“comrade”. It may be that a number of the other notices are (or purport to be) from elements of the Official IRA even though this is not clear on its face. In any event, it was being clearly and publicly stated that David McCafferty was the Junior Officer Commanding of the Patrick Pearse Sluagh. That status is a further explanation for the paramilitary trappings at his funeral.

10.303 Although less significant, subsequent publications openly identify David McCafferty as an Official IRA Fian and appear to have gone unchallenged. The book *Children of the Troubles* appears to record his father at least tacitly accepting his involvement, adding that all of David’s friends were probably in the same organisation. The Paper Trail publication notes that David McCafferty was “claimed” as a Fian of the Official IRA. Less importantly, but also relevant, is that, in the notes of Tommy Ramsey’s HET interview, one finds the following: “McCaffrey → official”. (It is clear from elsewhere in the notes that “McCaffrey” is actually a reference to David McCafferty.)

10.304 Of course, as I have already indicated, mere membership of that organisation does not tell me a great deal, if anything, about the precise circumstances of David McCafferty’s death on the night in question or what he was doing at that precise time. In my view, the MoD properly drew attention to the suspicious nature of the clothing he was wearing at the time. The virtually unanimous evidence has been that the evening of 9 July 1972 was a bright, fine, summer’s evening. In that context, David McCafferty may be thought to have been somewhat strangely dressed: in a black anorak, over a black long-sleeved sweater (over a shirt), with black trousers and black belt, and a pair of very soiled boots. That, again, however, does not tell me a great deal about what precisely he was doing at the time of being shot. I must bear in mind that it might be the case that David McCafferty did not have a large wardrobe and possibly owned relatively few clothes. I also bear in mind that the OIRA was, at this time, unlike the PIRA, still (at least officially) on ceasefire; albeit there is evidence that the OIRA may have been active that night and certainly appear to have been subsequently. Added to the fact that David McCafferty appears to have spent some time that evening with Gerard Kelly, whom I have also found to have been a member of the (PIRA) Fianna, there is a proper basis for suggesting that his intentions that evening may not have been wholly innocent.

10.305 However, on the basis of all of the evidence I have seen and heard, I do not consider that he was armed at the time when he was shot and so find on the balance of probabilities. It is striking that he is mentioned or seen by so few people; but this might well be because he was small and seemed fairly inconsequential to others. He appears likely to have fallen in and out of the company of a number of people that evening, suggesting that he had not gone out with any particular purpose in mind. In any event, I consider it more likely than not, whatever his original plans or intentions may have been that evening, and whether he was waylaid from those or not, that sometime before he was shot he was engaged in trying to assist Fr Fitzpatrick and/or Patrick Butler and/or, perhaps more likely, some nuns whom he had encountered. I consider it unlikely that he would have been doing so if armed.

The conclusion that he was unarmed also takes into account the further evidence discussed below, including the fact that Soldier A (in what I consider to be the likely account of the shooting given in his statement) did not assert that the last man he shot at this location was initially armed (until he approached a fallen gunman).

10.306 There was evidence from a variety of sources that David McCafferty had some prior knowledge of, and relationship with, the Mother Teresa nuns based at Springhill Avenue (for instance, in the evidence of Anne Begley, David's sister). That lends weight to the idea that he may have found himself assisting them on the evening of 9 July 1972. There is very limited direct evidence suggesting that he was in the company of some of these nuns shortly before being shot. Mary McVeigh says that she saw him (with Fr Fitzpatrick and Patrick Butler) in the company of the nuns very shortly before the shooting. I have already expressed some concern about the reliability of this account and whether it represents a false memory. It also abrades with the other anecdotal or second-hand evidence about David McCafferty's actions with the nuns, namely that he had returned them to the safety of their house before being shot. This narrative (that David helped the nuns to safety) is found in Nora McCafferty's and Robert Russell's account in the Springhill Massacre booklet, although neither is first-hand in this regard. It does find expression in the history given in the autopsy report and is in my view quite possibly correct. However, I consider it likely that, when shot, David McCafferty had parted company with any nuns whom he had earlier assisted. No eyewitness, save for Mary McVeigh, purported to see David McCafferty with any nuns at any stage; and no other witness gave evidence that nuns were in or about the location of the actual shootings at the time of them.

Was David McCafferty shot first in incident 2?

10.307 As appears above, John O'Donoghue was adamant in his evidence that David McCafferty had been shot *before* Fr Fitzpatrick and Patrick Butler. He was the only eyewitness to suggest this, although there are other evidential straws which could be said to support that hypothesis.

10.308 Nevertheless, it seems likely to me, taking into account the other evidence I have heard in relation to incidents 1 and 2 in this inquest, that Mr O'Donoghue is mistaken in his recollection that David McCafferty was shot before – and potentially significantly in advance of – the shooting of Fr Fitzpatrick and Patrick Butler. It might well be that his recollection (assuming it is genuine) relates to some other incident. The description of a boy running from the back of Kate Campbell's bungalow towards the Springhill flats and falling is, to some degree, consistent with Brian O'Kelly's description of his actions and falling in that location. Albeit he was not actually shot and got up again, Mr O'Kelly thought others may have jumped to the conclusion that he had been shot. This incident would have occurred some time before Mr O'Kelly made his way up through the Springhill houses at the time and location where he encountered Fr Fitzpatrick. Alternatively, it is quite possible that

David McCafferty did in fact fall at or about that location but was not shot at that particular point. There may be some support for that in other earlier accounts.

10.309 However, I note also that, in his earlier testimony to the St Aidan's Inquiry, Mr O'Donoghue gave an account which accords much more with other evidence heard in this inquest, namely that David McCafferty was shot *after* Fr Fitzpatrick and Mr Butler and in the vicinity of Mr Butler's body. That fact severely undermines the reliability of his later account which was given in oral evidence before me. In addition, I consider it unlikely that David McCafferty would have sustained the injury he did, from the angle he did, if he was shot whilst running east to west as Mr O'Donoghue described. As already discussed (see paras 10.120 to 10.124 above), I considered Mr O'Donoghue's evidence unreliable in a number of respects. Ultimately, I also do not believe elements of his evidence (see also paras 10.xxx below). In any event, in his account at the St Aidan's event, Mr O'Donoghue had described Fr Fitzpatrick and Patrick Butler being shot. He then said something to the effect that David McCafferty was told not to go near the bodies and to just leave them. Then Mr O'Donoghue said "whatever happened he fell"; before indicating that he (Mr O'Donoghue) picked him and took him to a house and put him through the window. The picture presented at St Aidan's was somewhat unclear; but certainly suggested that David McCafferty was still alive after Fr Fitzpatrick and Patrick Butler were shot.

10.310 Before dismissing the suggestion that David McCafferty may have been shot first, however, I have taken account of some other evidence or information which might be thought to support it.

10.311 The account of Eyewitness Two in the Springhill Massacre booklet also appears to suggest that David McCafferty could have been shot before Fr Fitzpatrick and Paddy Butler. ("He [Dee McCafferty] was hit and the priest and Paddy Butler... had gone round to try and aid the ones who were wounded... at the side of Fosters' house".) This account also appears to suggest that there may have been injured people at the side of the Fosters' house *before* Fr Fitzpatrick and Patrick Butler were shot at this location; although it is hard to know if that is just a description of where they (Fr Fitzpatrick and Mr Butler) were at the time they were seeking to render assistance. It is also difficult to know if the description set out above was intended to be sequential. Eyewitness Two is now known to be Gerard Heath who was not in a position to see, or at least does not purport to have seen, what happened at or about the location of the Fosters' house. He therefore could not give any direct evidence of this.

10.312 There is a passage in Gerard Kelly's book which may also be thought to suggest that David McCafferty was shot first, although it also appears somewhat equivocal and again does not represent a first-hand account since Mr Kelly said in evidence (and also said in his book) that he was in the Petticrews' bungalow at the time David McCafferty was shot. The relevant portion is in the following terms:

“Then a man came into the house through the hole in the wall and told us, “There’s three dead lying out there. Mr Butler and that wee lad McCafferty and Father Fitzpatrick have been killed. There’s three dead lying out there.” The last time I saw David was when I told him not to run. Apparently, afterwards, he ran out to help Father Fitzpatrick and he was hit. I believe he was hit eleven times while he was lying on the ground. They must have cut him to pieces. The priest and Mr. Butler stuck their heads out to look at David lying on the ground – you can picture two people looking out at the same time and ... the paratrooper killed the two of them with one bullet. (The British army later claimed that there were three IRA men dressed in black. This was just an attempt to cover up the murders.) ...”

10.313 The narrative here is potentially contradictory, since it says (first) that David “ran out to help Father Fitzpatrick and he was hit”. It is difficult to know if Fr Fitzpatrick had himself been hit at this stage or not. The former reading may be the more natural; but Mr Kelly may also simply be talking first about David McCafferty being hit because he had been with him earlier. The text then says that Fr Fitzpatrick and Mr Butler “stuck their heads out to look at David lying on the ground” when *they* were both killed. That might suggest that David McCafferty was shot first and was then lying on the ground; unless there was some other reason why he was lying on the ground before he was shot.

10.314 Margaret Butler’s contribution in the original version of the Springhill Massacre booklet is also interesting and somewhat cryptic. The relevant portion for present purposes (already set out at para 10.211 above) was in the following terms:

“Wee Dee McCafferty was with him and that’s how it happened. That was how my husband got it. He had gone out to try to pull Dee McCafferty in. He and the priest just turned to try and get him and the bullets went through the priest’s neck and through Paddy’s face.”

10.315 This suggests that Patrick Butler had gone out to try to pull David McCafferty in when he was shot. Like Gerard Kelly’s book, it does not make clear whether David McCafferty was shot or injured at this stage; or whether he was being pulled in for some other reason (for instance, simply pulled in to cover); and, if so, what he was doing at that point. It does, however, seem to suggest that Patrick Butler was killed for some reason associated with being *with* David McCafferty.

10.316 The emerging picture is very unclear. It could be that David McCafferty was lying on the ground in or near the back garden of the Petticrews’ or Campbells’ bungalow and that Fr Fitzpatrick and/or Patrick Butler were going to assist *him*

(which would account for Patrick Butler looking to his right) at the time when they were each shot. Assuming this is so, there is no clear indication of how or why he was on the ground. It may be that he had simply fallen when trying to make a dash from one of the bungalows back towards the flats.

10.317 This explanation would accord with Brian O’Kelly’s evidence that David McCafferty then came *from the right* after Fr Fitzpatrick and Mr Butler were shot. Mr O’Kelly described the person he later knew to be David McCafferty as coming out from the houses to the right. However, it became clear in the course of his oral evidence that he could give limited if any information about precisely where David McCafferty came from (or what he was doing in advance of being shot). He was conscious of the shot itself and of David McCafferty falling, and then he saw the body. At one point he explained this by saying that he saw the man he later knew to be David McCafferty moving “from the corner of my right eye”.

How (if at all) are these deaths addressed in the ciphered statements?

10.318 Relatedly, I have considered whether David McCafferty could have been the gunman referred to in Soldier A’s statement as having been shot by Soldier E at an earlier point than the other two men who were shot at this location (see para 10.251 above). However, I do not believe this to be likely. First, I have concerns about whether this is a truthful account of *Soldier E* having shot this individual. At the very least, it seems to me inconsistent with Soldier E’s own descriptions of his actions (and, in fact, also inconsistent with where Soldier E said Soldier A had described this person to have been shot). Second, the totality of the civilian evidence points away from David McCafferty being shot whilst running from behind 49 Westrock Drive down into the flats via a route which would have seen him shot where Soldier A describes at a time when gunmen were scattering. I also believe it unlikely that he would have been in any car which stopped in that area from which gunmen deployed. Gerard Kelly’s evidence, and the account in his book, contradict this. I believe David McCafferty made his way into the alleyway and the safety of the Springhill flats complex through one of the covered passageways. Third, this shooting – before Soldier A changed position within the wood shed – appears to have occurred at a time somewhat earlier than the civilian evidence (with the exception of John O’Donoghue) suggests David McCafferty was shot. Fourth, if David McCafferty was shot running south or south east into the flats complex, I would have expected the trajectory of the bullet through his body to have been straight from the back through to the front of his body or travelling right to left through the body from the back to front (rather than, as was the case, travelling left to right through his body from back to front).

10.319 On balance, I consider it more likely than not that Soldier A’s statement – referring to shooting and killing two men at the end of an alleyway to the east side of the flats complex – refers to shootings which occurred in incident 2, namely the shooting of Fr Fitzpatrick, Patrick Butler and David McCafferty. As discussed further below, it is unclear precisely which two shootings are sought to be described.

However, I am satisfied that it is likely that the same soldier shot all three individuals and that this was Soldier A.

10.320 It is notable that the position understood by the RMP to have been referred to by Soldier A was close to the location where these shootings occurred. No other shootings described in the ciphered statements are in this particular vicinity (save for that relating to the front of 92 Westrock Drive, discussed above). The lack of exact correlation could easily be explained by either the soldier or the RMP officer mistaking (through misdescription or misunderstanding) the end of the relevant alleyway with the end of the passageway which was nearby and parallel to it. It is also notable that the timing of these shootings given by the RMP was 21.50 hours, which is close to the time when I consider the shootings are likely to have occurred (see para 10.234 above). There are also a number of similarities between the description given by Soldier A and the events as described by civilian eyewitnesses, or as established by other evidence, in addition to the location and timing. In particular, a number of persons were shot in close succession; with the last to be shot dressed in dark clothes, coming over towards a body on the ground, and leaning down towards that body.

10.321 As discussed elsewhere in this ruling, I consider that the ciphered soldiers – whether acting in good faith or not – would have sought to have described events in their statements which bore some correlation to the events on the ground which, in due course, would or may call for some explanation.

10.322 I accept that there are some discrepancies between the account in Soldier A's statement and the other evidence I have heard. The two main discrepancies are that Soldier A describes shooting *two* persons at this location rather than three; and that he describes one of these as being armed with a light machine gun, or something similar (although not actually discharging that weapon). The reference in Soldier A's statement to Soldier E shooting a gunman running into the Westrock flats (who was then dragged into the alleyway) may account for the third death at this location, although the first in time. Cynically, it is possible that this could have been an account provided by Soldier A seeking to distance himself from the killing of Fr Fitzpatrick, assuming he was the first to be shot at that location, if he was aware that Fr Fitzpatrick was so shot and was a priest; with an explanation being given only for the shooting of Patrick Butler and David McCafferty.

10.323 For the purpose of this discussion, I will refer to the first person Soldier A described shooting at the edge of the flats complex as Man E and the second as Man F (to distinguish them from Men A to D discussed in Chapter 9). Each of the next of kin of Fr Fitzpatrick and Patrick Butler invited me to conclude that their loved one had been shot by Soldier A on the basis of that portion of his statement set out at para 10.241 above. However, they did so on different bases. The submissions of the next of kin of Fr Fitzpatrick appeared to suggest that Man E was a reference to Patrick Butler and Man F was a reference to Fr Fitzpatrick. In contrast, the next of kin of Patrick Butler suggested that Man E was a reference to Fr Fitzpatrick and Man

F was a reference to David McCafferty. The next of kin of David McCafferty did not invite me to conclude that Soldier A was the soldier responsible for his death. In their submission, the ciphered statements simply provided no reference to his shooting at all on the basis that there was no reference to the shooting of a small boy.

10.324 My own analysis is that the content of Soldier A's statement in relation to the first gunman he believed he shot and killed at this location (Man E) is likely a reference to, and attempt to explain, the shooting of Patrick Butler. Further, the content of the statement relating to Man F is likely a reference to, and attempt to explain, the shooting of David McCafferty. Unless the reference to the earlier shooting around the same location (which Soldier A sought to attribute to Soldier E) is an attempt to explain the shooting of Fr Fitzpatrick, and I think this unlikely, Fr Fitzpatrick's shooting is simply not addressed in this statement at all. My reasoning for this analysis is as follows.

10.325 As discussed at para 10.243 above, Man E is described as being dressed in a light-coloured shirt and dark trousers or jeans. I do not believe this could conceivably refer to Fr Fitzpatrick who was in a black shirt or stock (with clerical collar) and a black jacket and trousers. However, the clothing described *is* a match for that in fact worn by Patrick Butler who was wearing a blue t-shirt and dark suit trousers. Although he was shot in the head rather than the chest, I believe that he would have fallen backwards from the impact of the shot and then have lain still (the pathology evidence being that Patrick Butler's death would have been immediate). It might well have been difficult for Soldier A to see precisely where Patrick Butler had been shot if, as the evidence establishes, he was behind Fr Fitzpatrick when hit. The clothing and time and location of shooting contained within the statement are all close to those I have found to be established on the basis of other evidence.

10.326 As to Man F, the civilian evidence is generally that David McCafferty came from the alleyway (from the right) towards Patrick Butler and Fr Fitzpatrick. He was dressed in dark clothes and, although he did not have very long hair, had shoulder-length hair as can be observed from the postmortem photographs. Those photographs show that his hair was worn considerably longer than that of Fr Fitzpatrick. There is evidence – particularly from Robert Russell – that David McCafferty bent down over Fr Fitzpatrick's body to try to drag his body in. In contrast, there is no evidence of Fr Fitzpatrick bending over another person. The evidence suggests that he was shot just as he stepped out from the corner. Soldier A describes shooting Man F as he began to straighten up, with his *left side* exposed. He then fell over his "fallen comrade".

10.327 I believe these further details are also comparable in certain respects to the shooting of David McCafferty. The pathology evidence indicates that David McCafferty was shot in the *left side* of the back and was most likely bent forwards at the time (and shot from above and behind). The bullet passed through his body from the back and went through his right arm which was tight by his side (such that the bullet which exited the right side of his chest also struck his right arm): see para

8.79 in Chapter 8. It is difficult to understand what precisely would have caused him to have been in this position. On one view, this could have been once he had retrieved a weapon and was running back for cover. Equally, however, it could be explained by his being bent over trying to move a body. Prof Crane specifically agreed that this explanation was consistent with the wound pathology. Robert Russell's evidence suggested that David McCafferty had put his arms under Fr Fitzpatrick's armpits to move his body and they were 'locked' there when he was shot. That is a very real possibility; although I am reluctant to accept the accuracy of this particular aspect of Mr Russell's account without corroboration, given its association with his (incorrect) recollection of David McCafferty being shot repeatedly in the chest. He has, at least, been consistent in this, also giving the same account in the St Aidan's Inquiry. The IRA timetable of events published shortly after the incident did describe David McCafferty as having been shot "as he bent over Father Fitzpatrick" attempting to drag the bodies to safety. Finally, I believe the suggestion that David McCafferty fell over his fallen comrade could be explicable on the basis that his body fell very close to or over that of Fr Fitzpatrick.

10.328 Assuming this analysis is correct, a number of things follow. First, no explanation is proffered for the shooting of Fr Fitzpatrick by Soldier A. As the same bullet struck Fr Fitzpatrick which struck Patrick Butler, the individual who shot Patrick Butler shot both men. I believe it likely that Soldier A realised he had shot a priest (or at least knew this at the time when he was interviewed by the RMP and asked about whether he had seen a priest) and failed to account for the shooting. As mooted previously, it is possible that he ascribed a shooting to Soldier E at or about this location which (he hoped) might either account for Fr Fitzpatrick's shooting or at least cause some confusion, when Soldier E had not in fact shot a civilian at the edge of the flats. Alternatively, he may simply have ignored the shooting of Fr Fitzpatrick on the basis that he could think of no reasonable explanation. Although it is possible that his account of shooting Man F was a reference to, and purported explanation of, the shooting of Fr Fitzpatrick, for the reasons already given I consider this more likely to be a purported explanation of the shooting of David McCafferty.

10.329 Second, Soldier A was alleging that Patrick Butler was armed with an LMG or something similar and aiming it. I have found on the balance of probabilities that Patrick Butler was not armed at the time.

10.330 Third, and most importantly for the immediately preceding discussion about David McCafferty, Soldier A was not alleging that the last man to be shot at this location – Man F with the dark clothes and long black hair – was armed at the time when he approached the first body. Man F was only armed at the time when he retrieved the weapon from his fallen comrade. However, since I have found that neither Patrick Butler nor Fr Fitzpatrick was armed, I do not consider that there would have been a weapon for David McCafferty to retrieve.

Conclusion as to David McCafferty

10.331 Taking all of the above together, I am satisfied that David McCafferty was shot *after* Fr Fitzpatrick and Patrick Butler; and, further, find on balance that David McCafferty was not armed at the time when he was shot.

10.332 I am moreover satisfied that David McCafferty was shot and fell very close to the bodies of Fr Fitzpatrick and David McCafferty. I do not consider that he could have been retrieving, or could have retrieved, a weapon from either of them, given that I am satisfied on the basis of the evidence I have heard that neither of them was armed.

10.333 I remain somewhat suspicious as to what David McCafferty's original plans and intentions may have been that evening. He was involved in the OIRA Fianna; he was dressed suspiciously for the time; and the direct evidence about what he was doing prior to being shot is very limited. It is quite possible that he did have some role at some point assisting nuns, with whom he was familiar. There is some support for this in the recollection of Mary McVeigh, which may relate to her having seen David McCafferty with the nuns at some point that night. It is certainly an impression which gained currency very early and has persisted. There is some evidence that he had fallen into the company of Patrick Butler and Fr Fitzpatrick but the evidence in relation to this (a brief reference in Brian Muckian's deposition and the evidence of Mary McVeigh) is again limited or of questionable reliability. The direct eyewitness evidence I heard placed David McCafferty *not* beside Fr Fitzpatrick or Patrick Butler when he was shot but, rather, coming across to them from the right of Brian O'Kelly's position from somewhere else.

10.334 I have nonetheless concluded on the balance of probabilities that David McCafferty was not armed when he was shot. I am conscious that I did not feel able to reach the same view in relation to John Dougal. The key reasons for this distinction are as follows:

- (a) First, on my analysis of Soldier A's evidence, he does not in fact allege that David McCafferty was armed when he approached the body of his "fallen comrade" (whether that is Patrick Butler or Fr Fitzpatrick). The case which is made against him is simply that he picked up a gun from another (a gun which, I have found, was not being carried by that other to begin with). In contrast, I do consider that Soldier A's statement gives an account of John Dougal (Man A) holding a short weapon.
- (b) Second, it is possible and I think likely that Soldier E also described John Dougal (Man D) holding a short weapon, even though this was not a person who Soldier E himself shot.
- (c) Third, the circumstantial case against John Dougal is much stronger than any such case against David McCafferty:

- (i) John Dougal was older than David McCafferty (16½ years old as opposed to 15) and therefore more likely to have been entrusted with a weapon.
 - (ii) John Dougal was with John Petticrew (19 years old) shortly before he was shot, with intelligence to suggest that John Petticrew was in the IRA (which I consider likely to be correct at that stage) and that he had access to and/or control of weapons.
 - (iii) On Brian Petticrew's evidence, John Dougal had been with John Petticrew at Kathleen Clarke's house shop just before he was shot. There was intelligence (albeit post-dating this incident in September 1972) suggesting that that shop was used for arms storage.
 - (iv) John Dougal was also with Brian Petticrew (17 years old) shortly before he was shot. He was undoubtedly in the Fianna but intelligence, some of the content of which suggests familiarity with the Petticrew family, also suggested that he had joined the IRA several weeks before he was shot. He was also initially shot in the front on the arm, which is perhaps more consistent with a disabling shot fired at a gunman.
 - (v) In contrast, David McCafferty had been with Gerard Kelly earlier, both 15 years old. I have found that Gerard Kelly was in the (other branch of the) Fianna but, as with David McCafferty, there was no intelligence suggesting more active involvement than membership. They appear to have parted company before David McCafferty was shot.
 - (vi) Significantly, there was no claim immediately afterwards by those purporting to represent an unlawful organisation that David McCafferty had been "killed in action". The references to David McCafferty being killed in a "gun battle" are also absent.
- (d) The evidence (apart from the deposition of John Petticrew on which I place little weight) suggests that John Dougal had only recently left Kathleen Clarke's house shop (and had been in the Petticrew residence before this) before proceeding to where he was shot. In contrast, David McCafferty appears to have been moving around the Springhill area freely, seemingly mixing with others whom he came upon, for a longer period. There was therefore less opportunity for other civilians to see John Dougal with a weapon, if he was armed.
- (e) I have concerns about the truthfulness of a number of witnesses who purported to see John Dougal unarmed as a result of concerns about their own possible activities at the time, including Brian Petticrew, Martin Mulligan

and Gerard Heath, and John Dougal's proximity to them. I have fewer such concerns in relation to David McCafferty.

The issue of a priest removing a weapon

10.335 There was no intelligence material whatever relating to Patrick Butler (including that he had a weapon at any time or had a weapon removed from him). The two documents in PSNI sensitive disclosure which did or could relate to Fr Fitzpatrick were (i) the document mentioned at para 10.290 above (which I do not consider represents intelligence material); and (ii) the reference in the intelligence report relating to Martin Dudley (discussed at para 6.106) suggesting that a priest who was on the scene had removed a weapon. That intelligence report contained the following points:

- "8/ Martin Dudley, Springhill, Prev. Add: Gt. George's Street was shot in head at New Barnsley on 9.7.1972. He was using an M.1 Carbine. This weapon was removed by a priest who was on the scene.
- 9/ A man called Father Noel Fitzpatrick, Ballymurphy Road was shot dead at New Barnsley."

10.336 There are a number of points to note about this. First, the reference to "a priest who was on the scene" does not specifically refer to Fr Fitzpatrick. If the source of the information was the same source for the content of para 9, one would have expected Fr Fitzpatrick to be named. Second, the suggestion is that the priest removed a weapon which had been used by Martin Dudley. It does not relate to the removal of a weapon from Patrick Butler, David McCafferty or anyone else who may have been at the location where Fr Fitzpatrick was shot. No other evidence in the inquest suggests that Fr Fitzpatrick was at or near Martin Dudley at any point. Indeed, all of the evidence relating to this points in the opposite direction, namely that Fr Fitzpatrick wished to get to those lying injured near the car or in the front garden of bungalows but was unable to do so. I do not believe this suggestion can be given any significant weight in terms of the actions of Fr Fitzpatrick.

10.337 I have considered whether there might be an alternative explanation (whether correct or incorrect) for the content of this reference to a carbine which had been used by Martin Dudley being removed. One possibility occurs from the following evidence. Anthony Meenan described going to tell Margaret Gargan's parents what had happened for her and at the same time looking for a car which might assist with taking Margaret Gargan's body to hospital. He saw and approached a car at the junction of Westrock Parade and Westrock Drive. This had a man and a priest in it, whom Mr Meenan did not know. The priest told him to go home and pointed down Westrock Drive, where Mr Meenan saw a car at the turning

circle with a body hanging out of the front driver's door. In his HET interview, Mr Meenan was recorded as having said that the priest said he could not go with him as he had to go into Westrock Drive to administer the last rites to those who had been shot. (In those notes, the priest is identified as Fr Donnelly, although in his oral evidence Mr Meenan made it clear he did not know who the priest was).

10.338 In his statement, Soldier F refers to seeing the body of a male lying on his back in the garden of 60 Westrock Drive. I consider this very likely to be John Dougal. It was there for about 10 minutes when a car halted outside the house (the Tutons'). The driver of the car then examined the body together with a male who came out of 58 Westrock Drive. (That was Bart Meenan's house, through which Robert Russell and Bobby McCrudden were said to have retrieved John Dougal's body). Soldier F said the two men picked up the body, which was dead, and carried it into 58 Westrock Gardens.

10.339 It is possible that the priest seen by Anthony Meenan in the car at Westrock Drive and Westrock Parade went down to the circle area. That is what Anthony Meenan's evidence would suggest the priest was intending to do. If the car seen by Soldier F was the *same* car as was seen by Anthony Meenan, that could corroborate this having happened. Interesting, Soldier F's statement said that "at no time *during the exchange of fire* did" he see anyone dressed as a priest (my emphasis). He did not say that he did not see a priest at any stage of the incident at all. There is also evidence from civilian witnesses that at least two other priests were in the area at or around relevant times. Gerard Heath gave evidence that Fr McCaul was at the circle area at a time when he remained pinned down. (This appears to be around the time he also saw Denis Devenney in a blood-covered white shirt, likely therefore also after he had been assisting with the body of Margaret Gargan.) Fr Donnelly's deposition from the original inquest also indicated that he was at the Donnellys' house around 10.15 or 10.20.

10.340 It is possible that the reference in the intelligence document above (whether accurate or not) was referring to one of these priests, most likely Fr McCaul given that there is other supporting evidence to suggest that he was in or around the circle area shortly after the shooting in incident 1. If a priest did indeed remove a gun from that location – as to which I expressly make no finding (and could not reliably do so on the basis of this intelligence alone) – this could have involved removal of a weapon used by Martin Dudley or someone else at or near the car stopped beside the Tutons, including potentially Brian Petticrew and/or John Dougal. I also note that Mr Meenan saw another unidentified person in the car with the priest with whom he talked. It is unclear who the driver of the car was, whether the priest or this other man; and whether, if Soldier F and Anthony Meenan saw the *same* car, whether it was this other man who may have had some involvement with the body of John Dougal.

10.341 An intriguing vignette in evidence as a whole, which was not really addressed in the submissions of the PIPs, was the response of the church to the

whole incident. This was not addressed to any real degree in the evidence but there were a number of interesting, if somewhat cryptic, references in the Springhill Massacre booklet about it. Nora McCafferty (David McCafferty's mother) said that at times she felt quite bitter, complaining that "the clergy... never even opened their mouths" and that they did not want to talk about it or want to know. Eyewitness Four was quoted as saying that he had heard different stories from the media "and church" alleging what happened that day, but that this "was all lies". This perhaps suggests that there was some divergence, in at least some respects, between the church and community view of certain of the events.

10.342 Turning to the story about Kgn Felmingham, and Fr Fitzpatrick specifically seeking to recover a gun from a gunman, it is difficult to see from whom, if there was any truth to this account, Fr Fitzpatrick would have been recovering a gun. As noted above, the evidence suggests that he may have been trying to give the last rites to someone in the Petticrews' house or, perhaps more likely, John Dougal (or perhaps Martin Dudley, although he was somewhat further away from the location at which Fr Fitzpatrick was shot); yet he did not manage to reach any of them. For reasons given above, I do not believe that David McCafferty was shot in advance of Fr Fitzpatrick (and do not in any event believe it likely that he was armed). In short, there was no dead or injured gunman in the immediate vicinity of the Fosters' house for Fr Fitzpatrick to have been attending in order to either administer the last rites or retrieve any weapon. After the event, however, if one wished to explain having shot a Catholic priest - and one who (the evidence suggests) is unlikely to have been armed or in any way involved in an armed attack - the natural explanation one might give is that he was believed to be someone retrieving a weapon. In all of the circumstances of the evidence discussed above, I do not believe this represents an explanation of what Fr Fitzpatrick was doing at the time of his death.

Other curious or unclear issues

10.343 *Where the bodies lay:* There was some conflicting evidence as to where the bodies were taken to in relation to this incident. John Fusco's evidence was that, when darkness fell, he looked into the living room of 80 Westrock Drive (the Donnellys' house) and saw three bodies covered in sheets. I think this very likely to be wrong. The evidence of Kate Donnelly, Margaret Simpson and Mary Moore was to the effect that only Fr Fitzpatrick's body was in that location.

10.344 A previous witness indicated her belief that Patrick Butler's body had lain outside (at or near to the position where he fell) until daylight the next day. However, that is contradicted by the evidence from the relevant medical practitioners indicating that he was in the Casualty Department at 12.00 midnight. Gerard McMenemy's deposition also indicates that he took Patrick Butler's body to the RVH in a van in the course of the night. It does, however, appear to have lain in the street for much longer than the bodies of Fr Fitzpatrick and David McCafferty. This is quite probably because the pathology evidence in respect of each of them suggests that, unlike Patrick Butler, they may not have died instantly. I imagine

locals retrieved the bodies to houses, or began doing so, in the hope that they may be saved. For instance, Kate Donnelly gave evidence that it was like Fr Fitzpatrick was taking his last breath in her house. In Richard Russell's account in the Springhill Massacre booklet he said that he thought David McCafferty lived for a short time after being shot. Mr Macklin's deposition also indicated that, when he came upon the scene, Fr Fitzpatrick and David McCafferty were still alive but Patrick Butler was dead.

10.345 John O'Donoghue's evidence was that he took David McCafferty's body to Brian Muckian's house. There is other evidence that the body of David McCafferty was in fact taken to the Fosters' house. Gerard Kelly, whose evidence was that he stayed in the Muckians' house overnight (having gone there around 11.00 pm to midnight), said that David McCafferty's body was not brought there. Robert Russell's account in the Springhill Massacre booklet indicated that David McCafferty was lifted through the Fosters' front window. That account is supported by the deposition of William Macklin which also indicates that David McCafferty's body was put through the Fosters' window. Mr Thompson, the ambulance driver, appears to have picked the body up from the end of the alleyway, near Corpus Christi Church, with the body being carried up to him.

10.346 These are far from central issues in the inquest. I am satisfied, however, that David McCafferty's body was placed in the Fosters' house and then conveyed from there to an ambulance and onwards to hospital. I am satisfied that Patrick Butler's body was transported directly to hospital in the back of a van. There is evidence that, until then, it lay in the street, although covered by a coat. This might possibly be the third body referred to in the statement of Soldier F.

10.347 There is a curious issue about from where in fact the body of Fr Fitzpatrick was ultimately collected. Some evidence suggests that his body rested at Kate Donnelly's house (80 Westrock Drive), near to where he had been shot. However, Mr McClory who was the ambulance driver who collected the body identified a location near 78 Springhill Avenue. He also remembered shops nearby, which might indicate that the location was in the block containing May's/Mary's Shop, at the south-east corner of Corry's wall, which contained No 80 Springhill Avenue. Army radio logs suggest that there was a report from the RUC (via the Irish News) that Fr Fitzpatrick's body was at 80 Springhill Avenue, which Mr McClory confirmed was his recollection of the area where the body was collected. This raises the question of whether Fr Fitzpatrick's body was moved from the Donnellys' house to another house.

10.348 Mary Moore's statement from 1999 suggested that David McCafferty's body was picked up in a car, after an ambulance was held up getting there. She said a car took the body down the street and into the ambulance which had got around the back at the side of the chapel. I do not believe this to be the case in relation to David McCafferty's body on the basis of the deposition of Samuel Thompson. It is possible, however, that a car may have moved Fr Fitzpatrick's body to 80 Springhill Avenue

at some point, perhaps to the nuns' house at or near that location. In this regard, Kate Donnelly's account in the 1992 edition of the Springhill Massacre booklet refers to a hearse coming up and moving Paddy Butler's body up the alleyway and, at the same time, the priest's body being taken out the window. She said that this was how the priest's body was taken up because they came for Paddy Butler. (Nelly Gargan's contribution also referred to hearses that night, although it is unclear whether this is in any way connected.) In any event, I do not believe that anything turns on this issue in all of the circumstances.

10.349 *The white hanky*: Another point of detail is whether Fr Fitzpatrick was waving a white handkerchief at the time when he was shot; and whether Patrick Butler similarly was waving a handkerchief. The *only* witness who gave evidence to this effect was Brian O'Kelly. (John O'Donoghue, who also purported to be in close proximity to Fr Fitzpatrick at the time of his shooting, and to have seen him and Mr Butler being shot, close enough that Mr Butler almost fell against him, did not mention this detail, which might well be thought to have been memorable. John Fusco also said that Fr Fitzpatrick had been waving his right arm but he did not see, or recall, anything in it.) No other witness made the suggestion that Fr Fitzpatrick was waving a white handkerchief. As noted above (see para 10.96) Mr O'Kelly was familiar with the previous case of Fr Mullan who had previously been shot in Ballymurphy whilst waving a handkerchief. It might be the case that this image had lodged itself in his memory or became associated with his experiences in Springhill. He had previously indicated that Patrick Butler was also waving a hanky but seemed to resile from this in oral evidence. The detail about Fr Fitzpatrick using a hanky was mentioned in Mr O'Kelly's account at the St Aidan's Inquiry, in respect of which I had some concern about embellishment. It does find some support in the account of Eyewitness One, however, who recounted Fr Fitzpatrick arriving in a car and crossing Westrock Drive at an earlier stage waving a large white hanky, which caused his friend Z to laugh. Taking everything into account, I believe it is possible that Fr Fitzpatrick was waving a hanky before his death but have not been persuaded on the balance of probabilities that this particular aspect of Mr O'Kelly's account has been made out. Nonetheless, I do consider it likely (as also supported by John Fusco's evidence) that Fr Fitzpatrick may have been waving or motioning with his arm to seek to indicate that he posed no threat.

10.350 *The van*: Gerard Kelly gave evidence, consistent with what had been stated in his book, about a van being present outside the Fosters' house which was pushed into the gap between the Springhill flats and the Westrock bungalows in order to provide cover. This was also mentioned in the account attributed to Robert Russell in the Springhill Massacre Booklet. He described David McCafferty being shot as he tried to help Fr Fitzpatrick and continues: "I remember exactly there had been a van parked in front of Foster's window and while he was locked into the priest he bounced back and hit the van once or twice". (This was in the context of a suggestion that, having been shot once, David McCafferty was then "hit at least another seven or eight times in the chest".) Mr Kelly accepted that there were posts or bollards at the Corpus Christi end of the alleyway which were to prevent vehicles

coming in. (These were marked on the maps and mentioned by a number of other witnesses.) He said though that it was possible that the van could have got in from Westrock Drive, although he did not see it being parked.

10.351 Initially, I was concerned that Mr Kelly may have misremembered the presence of the van, given that it was mentioned by so few other eyewitnesses. However, it is referenced in Mr Russell's account in the booklet. Further, Mr Macklin's 1973 deposition also mentioned a van being present in that area. Mr McMenemy's deposition also mentioned taking Patrick Butler's body to the RVH in a van which was there (driven by Patrick Kane), a fact supported by the reference to the body being transported in a van which appears in the history set out in the autopsy report (see para 10.205 above). In his oral evidence, Robert Russell appeared to retreat from the suggestion of a van being present, saying that now he did not remember that. I am satisfied that there was a van present at or about this location. I am somewhat suspicious that Mr Russell may not have wished to give evidence about the van. In this regard, I also note that Gerard Kelly's evidence was that it was pushed out into the gap by, amongst others, Harry Flynn, who was shot by SM10 the next day at or near Corrigan Park in circumstances which suggest that he was a gunman at that time. Mr Kelly's vindication on this point is a factor which increased his reliability in my view, at least on certain issues. Perhaps strangely, the van does not appear to be mentioned by any of the ciphered soldiers in their statements. One presumes that if there was something sinister or suspicious about its use or presence that this might well have been mentioned.

10.352 *Absolution:* A lot of emphasis and attention during the hearings was placed by the MoD upon the fact that a priest had offered confession and absolution to persons in Mary Donnelly's house. The suggestion - drawing support from the Springhill Massacre Booklet - was that this was offered to those who had been "active" that night, that is, to absolve them from sin committed, or to be committed, in the course of paramilitary activity. Ultimately, I do not consider that I can read much into this issue which is of direct relevance to the circumstances of the deaths which are the subject of the inquest.

10.353 It is clear from the evidence of a number of witnesses in the inquest that a priest did, in fact, hear confessions or administer blessings at Kate Donnelly's home in the course of the night. However, I do not consider that this provides reliable evidence of paramilitary activity having occurred at, or in advance of, the deaths which are the subject of this inquest. In the first instance, it is unclear exactly when the confessions were heard. However, it seems likely that this was sometime *after* the deaths of Fr Fitzpatrick, Patrick Butler and David McCafferty. It occurred after Fr Fitzpatrick's body had been removed to the Donnellys' home and Fr Donnelly attended some time after that, assuming (as some evidence suggests) that it was Fr Donnelly who provided the sacrament. Assuming absolution was offered to those involved in paramilitary activity at some point, it is wholly unclear whether any such activity came before or after the deaths with which I am concerned. As mentioned by a number of witnesses, the reason for the giving of blessings or

absolution may well have been explicable on the simple basis that there was a dangerous situation and believers were keen to avail of this opportunity in case they came into harm's way.

10.354 Ann Maguire is quoted in Ciarán de Baróid's book as addressing this issue and refers to a different priest. The version attributed to her there suggests that, after Fr Fitzpatrick had been killed and was being tended to by nuns in May Donnelly's house, Canon Murphy and Fr McCaul arrived. Fr McCaul then "heard everyone's confession, including the Volunteers who were *beginning to come into the area with weapons*" (my emphasis added). It is difficult to know if it was Fr Donnelly who provided blessing/absolution, or Fr McCaul (whom other evidence, particularly Gerard Heath's, suggests was at the circle and then progressed into Springhill), or both. On balance, however, I consider this likely to have occurred after the deaths. Even if it was availed of by people who were in the locality earlier, I cannot reliably read anything into this as to the nature of their actions.

Were there gunmen in the area?

10.355 I have addressed the issue of the potential of gunmen operating in the area in Chapter 6 and, to some degree, in Chapter 9. There were a range of uninjured persons in the vicinity - particularly at the Petticrews' bungalow - in respect of whom there is significant intelligence to indicate involvement with unlawful organisations. I consider it clear that John Petticrew, Bobby McCrudden and Robert Russell fall into this category. The evidence also suggests clearly that Harry Flynn, who was shot and injured the next day in an incident where he was apparently engaged in shooting towards Corry's Yard from Corrigan Park, was in or around the area at a time proximate to the shootings in incident 2. Gerard Kelly described him pushing the van out into the gap between the Springhill houses and Westrock bungalows with David McCafferty and others. However there is no other evidence to indicate that he was doing anything unlawful at that particular time. The army radio logs do indicate that there was some automatic fire from the Corpus Christi direction at 22.03; and two further high velocity shots at 22.12 from the same area. This would suggest that there was likely a gunman, or more than one gunman, in that area shortly after I consider Fr Fitzpatrick, Patrick Butler and David McCafferty were shot.

10.356 Before leaving this incident, however, it is appropriate to return to the presence of John O'Donoghue and the conflict of evidence between him and John Fusco. As set out in Chapter 6, there was a significant amount of intelligence material relating to John O'Donoghue, who was 19 at the time. In his case, some PII material had been gisted to suggest that he had previously made an admission to a third party of IRA membership before the events of 9 July 1972. He denied this and the content of any intelligence material which was put to him, including material suggesting he moved from the Fianna into B Company of the IRA in the second half of 1971; that he was an Adjutant of B Company in January 1972 and/or a section leader August 1972 (the latter report being corroborated to some degree by Richard

O'Rawe's evidence of his own involvement, which was a further matter described in the report); or that he was an IRA sniper.

10.357 Mr O'Donoghue's evidence was that he was at the Norneys' house at 92 Westrock Drive in the Springhill flats babysitting with his girlfriend. He lived in Glenalina Road in Ballymurphy. He accepted that he was aware that the ceasefire had broken down due to the sounding of car horns in the Ballymurphy and Whiterock areas. As noted above (see para 10.116) he had not given the same explanation for his presence in the area at the relevant time when giving an account at the St Aidan's Inquiry. I formed the view (see para 10.122) that he was not being candid in his evidence in this inquest, in addition to other concerns about his reliability. John Fusco also gave evidence of being at the Norneys' house, entirely independently of John O'Donoghue and in circumstances where he too was not from that immediate area. There was intelligence reporting from September 1972 suggesting membership of the Fianna at that time. Mr Fusco relied upon his privilege when asked about this. He denied the content of additional reporting suggesting more involved membership of the IRA in 1973. Soldier E's statement referred, albeit with reference to remarks made by Soldier A, that there was a gunman in front of 92 Westrock Drive, that is, the Norneys' house (albeit there was an incorrect reference to this being a grass area). I have already commented (see para 10.138) that I am very uneasy about the tension between Mr O'Donoghue's and Mr Fusco's evidence about each being in the house but entirely independently of each other and with no or very limited contact. I do not believe I was told the full truth about this by either of them.

10.358 Taking all of the relevant evidence into account, I believe there is a strong possibility that John O'Donoghue and John Fusco were in fact acting together that night and engaged in unlawful activity. However, there is insufficient evidence for me to confidently so conclude on the balance of probabilities, much less to determine precisely what any such activity may have been.

Conclusions arising out of the evidence

10.359 In view of the discussion above, I find that Fr Fitzpatrick was shot in the vicinity of the southeast corner of 84 Westrock Drive, Belfast, at or about 10.00 pm on 9 July 1972. He was shot through the left cheek and neck by a soldier positioned in Corry's Timber Yard, more than likely to have been Soldier A, whilst emerging from the corner of 84 Westrock Drive to go to the assistance of another. This was a direct, aimed shot and not a ricochet. His death would have been rapid due to the injury to his spine and cervical cord. At the time of his death, Fr Fitzpatrick was unarmed and posing no risk to anyone.

10.360 I further find that Patrick Butler was also shot in the vicinity of the southeast corner of 84 Westrock Drive, Belfast, at or about 10.00 pm on 9 July 1972. He was shot by the same bullet which killed Fr Fitzpatrick and at the same time. He was therefore also shot by Soldier A who was positioned in Corry's Timber Yard. The

bullet struck him on the back of the right side of the head, as he too emerged from the corner of 84 Westrock Drive and as Fr Fitzpatrick looked to the left and Patrick Butler looked to the right. He was seeking to assist Fr Fitzpatrick at the time. His death would have been immediate due to the injuries sustained to his head and brain. He too was unarmed and posing no risk to anyone at the time of his death.

10.361 David McCafferty was also shot in the vicinity of the southeast corner of 84 Westrock Drive, Belfast, at or about 10.00 pm on 9 July 1972. He was also shot by Soldier A who was positioned in Corry's Timber Yard. This was a direct, aimed shot and not a ricochet. It struck David McCafferty on the left side of his back and passed through his chest. His death would have been fairly rapid, though not instantaneous, from the laceration of his right lung and liver. He too was unarmed and posing no risk to anyone at the time of his death. On balance, I conclude that he was more than likely trying to assist with the recovery of Fr Fitzpatrick's body at the time when he was shot.

10.362 In view of the light conditions at the time, the distance between Soldier A's position in the woodyard (likely to be less than 100m), and Soldier A's ability to describe the clothing and/or features of the men he shot, I consider that Soldier A had a clear view of the deceased, as further evidenced by the accuracy of his shot which killed Fr Fitzpatrick and Patrick Butler. I do not consider that he could have been mistaken, and formed a genuine belief, that Patrick Butler (or indeed Fr Fitzpatrick) was in possession of a light machine gun or something similar, as alleged in his statement, at the time when he shot them. Rather, he fired prematurely when they stepped out from cover, having lost control further to the shooting at the circle area addressed in Chapter 9, and shooting without having first made a proper assessment of the risk (if any) actually posed.

10.363 For similar reasons, when David McCafferty approached the body of Fr Fitzpatrick, it would have been evident to Soldier A that he was not seeking to retrieve a weapon from him (or from Patrick Butler). The shooting of David McCafferty as he sought to assist in the removal of Fr Fitzpatrick's body to cover was demonstrative of a further lack of control and a further failure to make a proper, if any, assessment of any risk posed.

10.364 For the above reasons, the shooting of each of these individuals was not in compliance with the yellow card, as it represented the use of more force than the minimum necessary to enable Soldier A to carry out his duties. I am satisfied that no warning was shouted at any of these deceased (and nor is that suggested in Soldier A's statement or on the MoD case). Moreover, none of the deceased were carrying a weapon or acting as though they were about to use a weapon in their possession.

10.365 On balance, I also consider that at this point Soldier A did not have an honest belief that he needed to use force to defend himself or others from unlawful conduct on the part of any of these deceased. This is principally because Fr Fitzpatrick - who was shot first and would have been visible first when he stepped out from cover -

was recognisable as a priest at the time and also as unarmed. In respect of David McCafferty, Soldier A's account does not allege that he initially had a weapon but, rather, went to retrieve a weapon which (I am satisfied) Soldier A would have realised was not present.

10.366 Even if I am wrong and Soldier A did hold a (mistaken) belief that he needed to use force to defend himself or others, the force used for the purpose of doing so was not reasonable given (i) his and other soldiers' concealed and protected position within the wood shed, (ii) the fact that Fr Fitzpatrick (and Patrick Butler) were shot immediately they stepped out from cover and without Soldier A taking time to properly assess the risk they posed, and (iii) the fact that David McCafferty was shot in the back.

11. DISCUSSION OF EVIDENCE *RE* INCIDENT 3

Civilian evidence *re* death and recovery of Margaret Gargan

11.01 A number of civilian witnesses gave evidence directly relevant to the shooting of Margaret Gargan, including as to her actions and movements before being shot, the recovery and treatment of her body, and, crucially, her actions at the time of the shooting itself.

11.02 It is uncontentionous that, in July 1972, Margaret Gargan was 13 years old and lived with her family at 44 Westrock Drive. The family had moved into one of the single-story aluminum bungalows in or around 1961.

Harry Gargan

11.03 Henry (Harry) Gargan was the younger brother of Margaret Gargan and acted as her next of kin in this inquest. He was 12 years old in July 1972. Mr Gargan provided three statements to the inquest, exhibited to which were a number of helpful historical photographs of the Springhill and Westrock areas. He gave oral evidence to the inquest on two occasions in addition to providing the personal statement or pen portrait in relation to Margaret.

11.04 Mr Gargan described 9 July 1972 as “a lovely summer’s day”. He stated that, around 4.00 pm, he, Margaret and Gerard Gilmore went to the Westrock and Whiterock Community Centre to set up for the bingo which was to take place later that evening. They remained in the Community Centre until about 5.00 pm. Mr Gargan then went home for his tea before going out to play football with his friends in the area he called “the circle”, where he remained until he was called home by Margaret at 7.00 pm to get ready for the bingo. (During his evidence it was explored with Mr Gargan where “the circle” was. I am satisfied that this is the same area referred to by other witnesses as “the turning circle”.) During questioning he was asked if he heard any shooting while he was playing in the circle, he confirmed that he did not, stating that “it was all quiet”.

11.05 Mr Gargan described the location of the Westrock and Whiterock Community Centre as “set nearly at the wall of Corry’s timber yard at the edge of the estate”. From other evidence available to the inquest, this appears to have been in an area to the south of the very east end of the southern wall of Corry’s Yard, at the eastern end of Westrock Gardens, beyond Nos 5 and 7 Westrock Gardens and behind Nos 1 and 3.

11.06 Mr Gargan gave evidence that, around 8.00 pm, he, Margaret and their father went to the Community Centre to take over the second half of the bingo calling. He described this as a usual Sunday night occurrence. In terms of timeline, Mr Gargan stated that the first half of bingo would have finished at 9.00 pm; and the shop,

which Margaret tended, would have opened from 9.00-9.15 pm. The second half of the bingo would have commenced at 9.30 pm.

11.07 Mr Gargan recalled that during the break there was talk that the ceasefire in Lenadoon had broken down. His mother was at the St John's GAA Club, which is linked to Corrigan Park, with her friend. His father told him to go home to check on his sister Bernadette and the younger children. Margaret volunteered to go in his place. He timed Margaret's departure from the Community Centre as around 9.20 pm. (Mr Gargan gave a somewhat different account, it appears, in a meeting with the HET team in June 2007. The record of that meeting suggests that gunfire could be heard outside the community centre and someone came in to say that a shooting had occurred. On this account, Mr Gargan Snr asked Harry to then go and check on the other children, with Margaret volunteering instead. In the account recorded by the HET team, Harry was asked 10-15 minutes later to go and see what had happened. He went out and was distracted when Jimmy Allsop called him over to his house. He later ran back to the centre to assist with the second half of the bingo when someone came in to say that Margaret had been shot.)

11.08 In his evidence in the inquest, Mr Gargan stated when he and his father had been on stage for about 15-20 minutes, having taken over the bingo calling for the second half, around 9.45pm, a man he did not know came in shouting "Margaret Gargan has been shot". (In his written statement he indicated that he did not know the man. In the pen portrait, provided later, Mr Gargan suggested that the man was Desi Crone, although in oral evidence he indicated that someone else had suggested that it was Desi Crone, whereas others said it was a Mr Cousins. This debate about the person who broke the sad news was also reflected in the HET note. In the pen portrait, which also addressed some of his evidence in substance, Mr Gargan had indicated that it was "after about 30 minutes in" to the second half of the bingo when the doors of the hall burst open and Mr Crone burst in.)

11.09 Harry Gargan and his father left the centre via the back door and through Molly Russell's house (5 Westrock Gardens). He recalled that it was when he was there that someone told his father that Margaret was at the Meenans' house. As they journeyed to Margaret, Mr Gargan recalled hearing shooting. His father pulled him to the ground and they crawled on their hands and knees along the side of the bungalows until they reached the Allsopps' home (at No 11 Westrock Gardens) which was across the road from the Meenans'.

11.10 Mr Gargan described the shooting as "big cracks... not constant but maybe there was one shot, then it was two or three shots." He stated that he did not see any shot strike anyone or anything, he could only hear the sound. In describing the direction of the sound of the shots, he stated that he travelled out of Molly Russell's house at No 5, which was against Corry's Yard, past the bungalows at Nos 7, 9 and 11 and "it was only coming from the right and from behind". When asked what was to the right and behind him, Mr Gargan said that behind him was Corry's Yard; and to the right were more bungalows stretching up Westrock Gardens up to Springhill.

11.11 Once at the Allsopps, Mr Gargan stated that he and his father waited for a couple of minutes. His father instructed him that, when he said, Harry was to run as fast as he could. During a “couple of minutes with little noise”, his father told him to run, took him by the hand, and they ran as fast as they could. When asked why they felt the need to run, he said that it was due to the shooting.

11.12 Arriving at the Meenans’ house, Mr Gargan recalled that Margaret was lying on a corrugated iron sheet. He stated there were men, women and children in the house; and he overheard people saying that the ambulances could not get in to get Margaret. A person he did not know said that that they would have to take Margaret to Whiterock to try and get her taken to hospital. Mr Gargan later heard that when Margaret was taken to Whiterock, a car was stopped and a man called Michael Butler helped. He recalled that people went to get his mother.

11.13 Mr Gargan stayed at the Meenans’ house that night, before asking to go home the next morning. When he got home, he initially locked himself in the bedroom. He recalled his mother coming to tell him that Margaret had arrived home from the undertakers. He cannot recall anything after this, even Margaret’s funeral.

11.14 During questioning, Mr Gargan was asked if he had seen a gunman or gunmen on the streets on 9 July 1972. He stated that he did not. He was further asked if he had ever heard of there being armed men on the same street where Margaret died. He stated that he had never heard this.

11.15 Mr Aiken took Mr Gargan to the account of Eyewitness Four in the early version of the Springhill Massacre pamphlet. Mr Gargan said that he did not think that he had ever read this before; that it was the first time he had ever seen it; and that he had never heard anything about the account given by Eyewitness Four. (As noted in Chapter 5, this was addressed in a later witness statement from Mr Gargan.) He also said that no one had ever mentioned this account to him; and that he did not talk to his father about Margaret. Mr Gargan was asked about his own knowledge in 1972 of who may have been in unlawful associations in the area. He emphasised that he was only 12 years old at that point and that he had no interest in politics. Even since then, he said he had no information regarding any of that; but that he would like to know the truth about these matters. His evidence was that he did not see any gunmen that day.

11.16 Mr Gargan was also asked of his own knowledge on 9 July 1972 and earlier regarding army presence in Corry’s Yard. He confirmed that he was “always aware” of this, explaining that at times the barrels of guns could be seen pointing out of the peaks of the wood sheds. He further stated that sometimes children would throw stones at the Yard and that “a lot of minor but also major things were done against Corry’s Timber Yard.”

11.17 Elizabeth Meenan (now Clarke) gave a statement and oral evidence to the inquest. She had previously given accounts to KRW Law in 1999 and to the HET in 2012. (In her statement, Ms Meenan indicated that the HET interview record had mistakes with names. In her oral evidence she indicated that she could not remember anything about attending the St Aidan's Inquiry.)

11.18 Ms Meenan's evidence was that, on the evening of 9 July 1972, she, then 16 years old, was at home with her father and brother Anthony. Her mother was visiting her older brother in the United States. Her friend, Rosemary Kennedy, called round and they had been hanging about in her front garden as it was a nice evening. She denied that people were indoors that day because of shooting, stating that she and Rosemary were in her garden for a couple of hours and that people had gone up to the Community Centre. The Meenans lived at 8 Westrock Gardens, one of the aluminum bungalows in the Westrock estate overlooked by Corry's Yard. Both Ms Meenan and Ms Kennedy described high hedges along the boundary of the garden. A path ran down the garden to an open entrance before a step down to the footpath.

11.19 Ms Meenan gave evidence that she was sitting at the bottom of the path in her family's garden with her friend Rosemary. Margaret Gargan, whom she knew well, came walking along Westrock Gardens, walking in the direction of Westrock Parade, which would have led on to her home at Westrock Drive. Margaret was one of her sister's friends. Ms Meenan could not recall what clothing Margaret was wearing that night but described her as "tomboyish", wearing jeans, with short hair and always dressing "like a wee boy". The witness said that Margaret was alone and stopped at the Meenan home and spoke with her and Rosemary, stating that she had been at the Westrock Community Centre and had been sent to check on those at her home. (In her statement she suggested that Margaret said that she had been sent out by her mother, who was at the bingo, to find out what was happening in the area.) Ms Meenan and Rosemary remained sitting at the bottom of the garden path while Margaret "knelt down on her hunkers" to Ms Meenan's right, with Rosemary sitting on Ms Meenan's left. (This is what is indicated in Ms Meenan's KRW statement; but in her statement to the inquest she indicated that Margaret sat down on the pavement.) She said Margaret was on the footpath, facing Corry's Yard, and on her own.

11.20 Ms Meenan described the trio as "just sitting around having a good laugh". Her evidence was that, at the time Margaret stopped to talk to her and Rosemary, the three girls were the only people in the street. The area was quiet and, while some shooting could be heard in the distance or in the background, there was no shooting in the area they were in. She took it that the shooting she could hear was from Springhill. This did not cause her any concern. She indicated later in her evidence that she had heard shooting before and it was relatively common where

she lived. When asked if she had seen anyone shooting or holding a gun, Ms Meenan said that she had not.

11.21 Ms Meenan said in her statement that, “The next thing there was a single loud crack and a whizzing sound, which I thought had come from the direction of Corry’s Yard.” Ms Meenan described this single shot as sounding much louder than the other shooting she had heard and she was quite definite about this in her oral evidence. It caused her to jump back. In her statement, she continued:

“There was some sparks and Rosemary and I jumped back further up my garden path. I then looked down to where Margaret had been and all I could see at the end of our path was legs from the knees down. I remember saying a couple of times “Margaret stop messing about and get up. Come on, wise up.” There was no movement from Margaret so I ran to the front door squealing and met my father. I cannot remember if Rosemary came into the house or not but I told my father and he sent me to my room. I remained in my room.”

11.22 In her oral evidence, Ms Meenan described the sparks as being down the street on the footpath from where Margaret was. In a map attached to her statement to the inquest, Ms Meenan marked what she believed to be the direction of travel of the shot, coming down from her left down the street (Westrock Gardens). Corry’s Yard (and, in particular, the portion of the yard in which the wood shed was located) was to Ms Meenan’s left. In a previous account in 1999, Ms Meenan had stated that she felt Margaret would have been visible from Corry’s Yard but due to the high hedges along the garden, she did not think her position would have been visible from Corry’s.

11.23 In response to questions from MoD counsel, Ms Meenan denied knowledge of the Springhill Massacre Booklet but also disagreed with the suggestion that the account of Eyewitness Three was accurate. In response to questions about the handwritten HET interview notes with her, she could not recall saying that there had been firing “from all sides” but accepted she could have said it; she just could not remember.

11.24 I generally found the evidence of Elizabeth Meenan to be credible and persuasive. She was 16 years old at the time of the events, older than some of the other children who later gave evidence. In her expert evidence, Ms Kiernan considered that the sights and sounds Ms Meenan described were consistent with a high velocity shot, including one which struck Margaret directly and then hit a hard surface (such as the ground). In particular, the sound of the crack and whizz which she described were consistent with Ms Kiernan’s evidence as to what one would experience if you were close to a passing high-velocity bullet and within the zone of supersonic shockwave (that is, within metres of the bullet in an open environment).

11.25 Rosemary Kennedy (now Heath) was the person said to be with Elizabeth Meenan at the time that Margaret Gargan was shot. She provided a statement and oral evidence to the inquest, in addition to earlier accounts to the St Aidan's Inquiry in 1999 and to KRW Law in 2013. Her evidence was heard remotely due to health issues and also over a number of occasions since, as her examination by PIPs' counsel continued, it was considered that the witness was getting tired and not in a position to provide best evidence.

11.26 In her evidence, Ms Kennedy, 15 years old at the relevant time, confirmed that she was sitting with Ms Meenan at the end of the Meenans' garden path. It was a nice, bright evening and they had watched people go to the bingo. At that point it was just a normal night. She later saw Margaret Gargan, whom she also knew well, walking towards them along Westrock Gardens from their right, which was the direction of the Community Centre. Margaret was alone and was wearing jeans and a baggy top. Margaret stopped to talk to the pair. Ms Kennedy stated that Margaret was facing Corry's Yard, leaning against the hedge next to where she and Ms Meenan were sitting. They were sitting and Margaret was standing. She did not see anyone else on the street.

11.27 Ms Kennedy described "a single shot that hit Margaret" and then "heavy shooting" when people tried to help Margaret. (Ms Kennedy was initially unclear in relation to the number of shots, having originally said in her statement that there was "a number of shots" which seemed to come from Corry's Yard; but she seemed to settle on a single shot which struck Margaret Gargan, followed by further shooting when people tried to reach her.) She felt that this shot must have come from Corry's wall because of Margaret's orientation. She did not see anyone firing; but also said there was nobody else in the street. She remembered very little about what happened after Margaret was shot.

11.28 Ms Kennedy recalled Ms Meenan's brother, Anthony Meenan, and Denis Devenney coming out. Mr Meenan tried to get to Margaret but was unable to due to the shooting. Ms Kennedy again believed the shots were coming from Corry's Yard.

11.29 In her statement to this inquest, Ms Kennedy indicated that she was the person referred to as Eyewitness Three in the Springhill Massacre Booklet. However, she corrected a number of elements of that account. As discussed in Chapter 5, I formed the view that Ms Kennedy was possibly wrong to assume that she was in fact Eyewitness Three, which she appeared to have done on a flimsy basis and without any other knowledge or involvement in the circumstances of the pamphlet being produced.

11.30 Ms Kennedy also corrected accounts given by her in 1999 to the St Aidan's Inquiry and, in 2013, to KRW Law in a number of respects, indicating that certain

aspects of these earlier accounts were simply wrong, especially in respect of the timing and circumstances of her going to the Meenans' house.

11.31 Ms Kennedy's evidence was an example of a concern raised by the MoD in their submissions throughout the inquest, namely that a civilian witness might distance themselves from aspects of earlier accounts either given by them, or attributed to them, where that account did not fit with a more palatable community narrative; that is, by removing references to significant levels of gunfire or "trouble" at or before the time of the deceased's deaths. At the same time, Ms Kennedy provided a plausible basis for her current account, namely that her parents would not have allowed her out if there was trouble in the area earlier in the evening and that, had that been the case, people would also not have gone to the bingo but would have stayed in their houses. I was nonetheless troubled by the difference between her evidence in these proceedings and the indication at the St Aidan's Inquiry (in a statement read out on her behalf) that she and Elizabeth Meenan had gone to where the shooting was at Westrock Drive out of curiosity and had been chased away. I did, however, believe the core of her account about the circumstances of sitting with Margaret and seeing her shot.

Marie Meenan

11.32 Marie Meenan (now McHugh) was the younger sister of Elizabeth Meenan. Marie Meenan gave a statement to the inquest and oral evidence on 9 March 2023. She had previously given an account to the HET in 2012.

11.33 In July 1972, Marie Meenan was 12 years old. Her evidence to the inquest was that, on the evening of 9 July 1972, she was at the Westrock Community Centre with Margaret Gargan. Ms Meenan usually helped to run the shop at the Community Centre during the breaks between bingo rounds. On that night she was with Margaret at the Community Centre. Her statement notes that she remembers that Margaret's mother Nelly was at the centre playing bingo and she asked Margaret to go home and check on the other children. In her oral evidence, she resiled from this to some degree and said she could not remember Margaret's mother being there; she believed she was but could be wrong about that. She could not remember as it was 51 years ago. It appears to me more likely than not, particularly on the basis of the evidence of Harry Gargan, that Nelly Gargan was *not* present at the Westrock Community Centre that evening. Had she been there, I would expect Harry Gargan to have remembered this and for his evidence – in terms of his mother later being informed of the death – to be entirely different. It does appear correct, however, that Margaret was asked (by her father) to go and check on the other children, partly because her mother was not at home but at St John's GAA Club.

11.34 In any event, Ms Meenan said she told Margaret that she would go with her. She said they left the centre around 8.30 pm. Margaret was dressed in trousers and a top. Ms Meenan stated that the area was quiet, with no-one around. The girls

walked up Westrock Gardens towards her house, when she saw her sister Elizabeth and Rosie Kennedy sitting on the step at the end of the Meenans' path which faced onto the road. Marie and Margaret stopped to talk to them. In her statement, Ms Meenan said that she was leaning down closest to Rosie and that Margaret was stood next to her. In contrast, in the record of her HET interview, it was suggested that both she and Margaret were kneeling down, facing Corry's. In her oral evidence, she again said that they had each knelt down and were on the footpath on their "hunkers". Ms Meenan was closest to the hedge, while Margaret was further out, closer to the road. Both girls were facing the direction of Corry's Yard. In her HET interview, Ms Meenan indicated she did not feel threatened or in danger whilst the girls were there talking.

11.35 Ms Meenan also stated that she and Margaret were only there a matter of minutes when shooting started. She could not recall shooting in the area before this. She described "big flashes" and "whizzing" and "then Margaret fell". She saw flashes coming down and then heard the noise coming from Corry's wall. She thought there was more than one shot; two or more. Ms Meenan again described flashes coming; and then someone pulled her in. In her HET account, she mentioned seeing a flash from high up in the sheds within Corry's. (This last element of her evidence was taken from her HET interview which was read to her in evidence. In answer to questions from Ms Quinlivan, Ms Kiernan in her evidence explained that a muzzle flash from a high velocity weapon is "quite noticeable". Even if one is not looking directly at the muzzle of the gun, it will illuminate the area surrounding the weapon.) Ms Meenan did not see any gunman or soldier in the area.

11.36 On a map appended to her statement (marked 'MMcH2') Ms Meenan indicated the route she took down Westrock Gardens, where her house was, and also where she thought the shooting was coming from, from Corry's Yard. The shooting was marked as coming directly south to 8 Westrock Gardens (between Nos 19 and 27 Westrock Gardens). In her oral evidence, she said the bullets seemed to be coming from "the top of the street", later describing that she and Margaret had been looking up Westrock Gardens (not at the Devenneys' across the road) with Corry's at the top of the street. She initially appeared confused in giving this evidence but ultimately settled on the clear position that the shots had come up Westrock Gardens from that part of Corry's near No 43. This was contrary to the initial indication on the map appended to her statement.

11.37 In her HET interview, Ms Meenan had described her sister shouting at Margaret to "get up" and "come on". Ms Meenan said that her daddy and brother Anthony kept trying to pull Margaret into the garden from the path, with the gunfire continuing. When they did get her into the garden, she remembered seeing one of Margaret's shoes lying in the middle of the path in blood. She said Margaret was shot through her face on the right-hand side of her nose and she did not move after she was shot. In later questioning, she indicated that she did not see her father and brother trying to pull Margaret in but that they had said that that was what had happened.

11.38 Ms Meenan stated that she and Elizabeth were put into the bedroom, where they remained. She also indicated that Harry Gargan, Margaret's brother, joined them when he and his father arrived later that night at the house.

11.39 I pause to note that there is an obvious discrepancy between the evidence of Marie Meenan and that of her sister, Elizabeth Meenan. Elizabeth Meenan described Margaret Gargan as having been alone. Her statement said that she has a sister called Marie but that she "was not with her at the time that Margaret was shot". Rosemary Kennedy, who was with Elizabeth, also does not recall Marie being with Margaret Gargan at the time. She said that Margaret came up by herself; although she could not remember if Marie Meenan was in the same area. However, in her HET interview, Elizabeth Meenan had referred to "they" having been at the community centre. (In her oral evidence she was clear neither she nor Rosemary Kennedy had been at the community centre; she did not *recall* her sister Marie having been with Margaret; and she did not know who else, if anyone, was being referred to in the plural "they" in the HET interview record. Generally, I formed the impression that this HET interview record was not particularly reliable, principally because of the obvious mistakes with names.) Ultimately, in response to a question on behalf of the next of kin of Margaret Gargan, Elizabeth Meenan accepted that *if* her sister had been with Margaret Gargan, she had forgotten about it.

11.40 Harry Gargan's evidence corroborated the fact that Marie Meenan worked along with his sister Margaret in the shop at the Community Centre. He was aware that she was present there on the evening of 9 July 1972. However, until he received her statement as part of this inquest, he had not previously been aware that she had left the Community Centre with Margaret that night. Marie had never spoken to him about it. In his oral evidence, he said that he was not sure if Margaret left on her own. He did not *see* anyone leaving with her. However, he was unable to provide further assistance on this issue.

11.41 In response to questions from MoD counsel, Marie Meenan insisted that she *had* been present and denied the suggestion that, having spoken to others about events over the years, she recalled being there when she in fact had not been.

11.42 There were elements of Ms Meenan's evidence which appear to me to be mistaken. For instance, as noted above, I consider it more likely than not that Nelly Gargan was not present at the Community Centre, as she initially suggested. I also consider Marie Meenan's assertion that she and Margaret left the centre at 8.30 pm to be unreliable, given that other evidence suggests this would have been closer to 9.30 pm, once the first half of the bingo and Margaret's duties at the shop had concluded. On the one hand, these likely errors undermine the full reliability of Ms Meenan's account. However, they may also serve to undermine any suggestion that Ms Meenan's evidence was manufactured, after the event, to fit in with other evidence or accounts she had seen or heard.

11.43 At the same time, there were elements of Ms Meenan's evidence which appeared to me to have the ring of truth. She was plainly a friend of Margaret Gargan's and they were close in age. It seems that they both helped with the shop at the bingo in the Community Centre. In those circumstances, it would be perfectly natural for her to be in Margaret's company when she left the Community Centre that evening. Her description of the 'whizzing' sound is consistent with what one would expect if indeed she was in close proximity to Margaret Gargan when she was shot. She recalled her sister shouting at Margaret to get up and come on, which is consistent with Elizabeth Meenan's evidence. In addition, in her HET interview she recalled Margaret only having one shoe on. In her statement she also referred to one of the shoes lying in the path, covered in blood. This accords with the later autopsy findings where only one shoe appears to have accompanied the body. Her description of the wound to Margaret's face (on the right-hand side of her nose) is also consistent with the wound she actually sustained.

11.44 It is, of course, possible that Marie Meenan has stitched together details of which she was aware from a variety of sources; and that in her mind she has wrongly, although genuinely believing this, placed herself in a situation where she was not in fact. However, on balance, I am inclined to believe that it is more likely than not that Marie Meenan was present at the time Margaret Gargan was shot. Put another way, I consider it more likely that Elizabeth Meenan and Rosemary Kennedy have forgotten that she was present than it is that she has invented the story of being present. It is possible that, if indeed she was closer to the hedge than Margaret, Marie may have been excluded from the other girls' view to some degree; or, perhaps more likely, that in light of the trauma of the event, the other girls have focused upon or remembered Margaret, and what happened to her, to the exclusion of others. I accordingly am prepared to place some weight on Marie Meenan's evidence in relation to the circumstances. I further note that, during the St Aidan's Inquiry in 1999, when Don Mullan inquired about witnesses to Margaret Gargan's shooting, a contribution from an unidentified speaker (although possibly Martin McWilliams) indicated that Margaret "was talking to the actual Meenan girls when she was shot", adding that Liz Meenan and her sister was with her.

Anthony Meenan

11.45 Anthony Meenan is the older brother of Elizabeth and Marie Meenan. Mr Meenan provided two statements to the inquest before his oral evidence. He had also given an account to the HET in 2011.

11.46 In July 1972 Mr Meenan was 19 years old. He lived in the family home and worked at DC Products making car exhausts. He described the Westrock Gardens area of the estate as "always quiet", with any trouble in the area usually happening near Corpus Christi Church and the top end of Springhill area. On 9 July 1972, he was at home with his father. He recalled "the odd shot" being fired but, as he was inside, he was unable to say where the shooting was coming from. He recalled in his statement:

“The next thing I remember was the side door busting open and my sister Elizabeth (Liz) who was aged about 16 years old squealing “Margaret, Margaret.” I got up, went to the door and asked who she was talking about and was not getting any sense. I looked at the end of our garden path and I could see two wee legs from the knees down lying on the footpath at the end of the garden path facing towards Westrock Parade. I could not see the rest of the person’s body. There was no movement from the body.”

11.47 Mr Meenan described “a lot of gunfire” as he tried to get to the injured person. He used the garden hedge, which was 8 feet high and 3 feet wide, as cover to hide behind to get to the end of the path. He could then see the injured person was Margaret Gargan, whom he knew. He tried to get to Margaret but could not, due to the gunfire. He recalled Bernie Devenney, who lived in the house opposite, was in his hallway with the door open, shouting at him to stay in. Although at the inquest Mr Meenan described that his mind “just went blank” as he tried to reach for Margaret, in his deposition to the original inquest dated 26 July 1973 he described her position as being that “her feet were slightly out into the footpath and she lay at an angle with her head next to our garden”. His evidence at that point was that Margaret’s feet were nearer Corry’s Timber Yard. She seemed to be lying mostly on her stomach. He had said it was about twenty minutes before could reach her. She seemed dead to him as there was no movement. His father got a blanket and he pulled her into their path.

11.48 Mr Meenan also described pulling Margaret into the path in his 2011 interview with HET, although the interview note described him putting his arms under her armpits and lifting or pulling her in. During this time he was concentrating on Margaret and not looking up or down Westrock Gardens. In his evidence to the inquest, however, in particular in his second statement, he believed it to be incorrect that he lifted her. He remembered that he could not get her on to the footpath due to the gunfire and as she was in a bad way. Rather, he ran to get help and, on return, discovered that others had moved Margaret into his family’s garden.

11.49 Mr Meenan recalled telling his father that he would go to Margaret’s parents to tell them what had happened. He described his route through Westrock to get help, crawling along houses and fences to take cover from the shooting. He then saw a car at the junction of Westrock Parade and Westrock Drive. He ran to the car and asked the occupants, a man and a priest whom he did not know, to come to Westrock Gardens. The priest told him to go home and stay in the house, pointing down Westrock Drive towards Corpus Christi Church.

11.50 At this point, Mr Meenan saw a car, the make or model of which he did not know, at the ‘turning circle’ at the top of Westrock Drive. He was looking at the back of this car. The front driver’s door was open and a body was hanging out of

the driver's side with its head nearly touching the ground. The rear passenger side door was also open and he could see movement by it: he believed a person was using the door as cover. Due to the distance, he could not identify these people. He did not see any other cars at the turning circle nor any other persons there or on his journey, describing the area as "deserted".

11.51 Believing he could not travel any further, Mr Meenan returned home, travelling the same way he had come. At home, neighbours had come in to help. Mr Meenan stated they had been at bingo and had heard what happened. He described Margaret as bandaged up and now lying on a corrugated sheet in the garden. He recalled his father telling him that ambulances could not get into the area and that he would have to go with Margaret to hospital. Mr Meenan recalled a number of people, including himself, carrying Margaret on the corrugated sheet to Britton's Drive. He described this area as providing some cover from the gunfire as the houses were made of brick.

11.52 At Britton's Drive the group flagged down a car, he believed a Mini, with a man and woman inside. (I note that, in his deposition, Mr Meenan indicated that he flagged down a car at Westrock Parade. In his statement, he says this was Britton's Drive.) He got in the back seat of the car and Margaret was placed on his knees. They drove to the Royal Victoria Hospital and someone came out to take Margaret inside. Mr Meenan recalled being taken to a small room where the police spoke to him. Mr Meenan stated that he did not see any persons with guns in the area that night.

11.53 Leaving aside the issue discussed above (as to whether in fact Mr Meenan pulled Margaret's body into their garden), Mr Meenan's 1973 deposition is largely consistent with what he said at this inquest, although he gave some further details in that deposition, including that he left his house about 10.10 pm and that he had heard shooting from about 9.30 pm. In the deposition he said that he left the house as he heard running outside. (The note of his HET interview in November 2011 is more consistent with his evidence to this inquest in this regard, namely that his sister Elizabeth came into the house screaming about Margaret.) There are also some discrepancies in the area where he said he flagged down the car to take Margaret to hospital.

Denis Devenney

11.54 Across the road from the Meenans, the Devenneys lived at 19 Westrock Gardens. The front door of the two bungalows faced each other. Unlike the Meenans', the Devenneys' garden was not surrounded by a hedge or a fence. Bernie Devenney, referred to by Anthony Meenan in his evidence, is deceased. His brother, Denis Devenney, was 17 years old in July 1972. Mr Devenney gave a statement and oral evidence to this inquest. He is again one of the few witnesses who also provided a deposition to the original inquest in 1973.

11.55 In describing the area of his bungalow in his evidence to this inquest, Mr Devenney recalled that the timber yard had 20 foot walls to which the bungalows were so close that once, when the yard was set on fire, the two bungalows next to his house were caught in the fire and burned down. (This was possibly the fire at the yard which occurred on 18 July 1972).

11.56 Mr Devenney recalled the ceasefire in July 1972 and stated that the Westrock Estate, and in particular the Westrock Gardens area, was a relatively quiet area in which there was no "trouble". Any trouble was usually on the main roads.

11.57 On 9 July 1972, Mr Devenney had fallen asleep on top of his bed listening to the radio. He could not recall the time, but he was awoken by his father "shouting and crying". He got up to see what was going on. He reached his front door and saw his father looking at something. Mr Devenney then saw a girl's body lying on the footpath outside Meenans' path entrance. Describing the position of the girl, he recalled: "The girl's feet were nearly at Meenan's path and her head was out towards my house and the road, facing away from Corry's yard and pointing more towards house no.2 Westrock Gardens. The girl was lying on her back and she looked dead, there was no movement. I remember that she was wearing jeans and a wee jacket and I knew her, it was Margaret Gargan. I knew it was Margaret from her clothes and hairstyle."

11.58 Mr Devenney went to help Margaret. He saw Anthony Meenan lying on his own garden path, shielded from sight by the garden hedge. Anthony shouted at him "stay put they are shooting". Mr Devenney described single shots coming from the direction of the timber yard to his right (as he stood at his front door looking across at the Meenans) hitting the concrete road. Mr Devenney could not recall how long they had to wait but, when the shooting stopped, Anthony ran out and grabbed Margaret's legs while he grabbed her shoulders. They carried her into the Meenans' garden. Mr Devenney stated that he was wearing a white shirt and, after lifting Margaret, there was blood all over it which had come from the back of her head. He did not recall anyone else assisting in lifting Margaret's body.

11.59 Although nothing of much significance likely turns on this, I think it likely that Anthony Meenan did in fact assist with bringing Margaret's body in off the footpath into the Meenans' property. This was the fairly clear evidence of Mr Devenney and accords with the earlier account given by Mr Meenan in his 1973 deposition.

11.60 Mr Devenney struggled to remember what happened next. He could not recall much of the car which took Margaret to hospital, save that he recalled holding her in the car. Upon arrival at the RVH, someone took Margaret inside and he left. On his way home from the hospital, when walking back to his own home at the junction of Westrock Drive and Westrock Parade, Mr Devenney recalled looking up the street and seeing people lying on both sides of the road, perhaps four people, in two pairs either side of the road. He could not say who they were or whether they

were alive, injured or dead. The area marked by Mr Devenney where he saw these people is the area referred to as the 'turning circle'. I found Mr Devenney's evidence as to this to be somewhat patchy and unclear. He could not recall if he saw any cars in that area. Mr Devenney said that he did not see anyone with weapons that night.

11.61 In his 1973 deposition, Mr Devenney timed his waking at about 10.10 pm when he heard his father, who was hysterical, shouting "There's a wee kid across the road, she's dead, she's dead." He stated that he could not get to her because of the heavy shooting, having to wait for about 10 minutes before it eased off and he could make a dash across the road. In his oral evidence to the inquest, he could not remember the times; but accepted that he would have been telling the truth in his statement in 1973 and that his memory would have been better then, closer in time to the events.

11.62 In response to questions from MoD counsel, Mr Devenney indicated that he could not remember any attacks on Corry's Yard in the months before 9 July 1972 (which I doubted). He said he had never seen the account of Eyewitness Four in the Springhill Massacre Booklet. He had left Westrock in 1973 and then lived elsewhere. He also said he did not see the incidents described in the Eyewitness Four account (e.g. IRA volunteers giving covering fire). He further said he did not see any IRA men and did not know anyone in the IRA at that time. He only recalled himself and Anthony Meenan moving the body.

Michael Butler

11.63 Like Mr Devenney, Michael Butler (as far as I am aware no relation to Patrick Butler, one of the deceased in this inquest), gave a statement and oral evidence to this inquest in addition to a deposition to the 1973 inquest. Mr Butler's evidence was that, on the night of 9 July 1972, he was driving his wife and children home in a rented four-door Mini car following a family holiday to Butlins. He could not remember any other details about the car. As they approached their house in Whiterock Parade, around 10.00 pm to 10.30 pm, he noted the area seemed quiet and very eerie, when it was usually bustling at that time of evening. Two men, whom he did not know, flagged down the car and asked if he would go to Westrock Gardens and take an injured person to hospital. The men explained that they had been looking for people with cars as ambulances would not come into the area. Mr Butler agreed to help and was instructed not to turn his headlights on while driving, as there had been shooting from JP Corry's Yard earlier that evening.

11.64 Mr Butler was adamant that he was stopped just outside his house. He could not remember anything like the initial journey described by Mr Meenan (being flagged down in Westrock Parade and reversing down Westrock Drive.) He also said he did not know Arthur Neeson, referred to in the Springhill Massacre Booklet as having brought Margaret down to the Royal. (The inquest team could not trace Mr Neeson. It was suggested that he had moved to Australia but he was unable to be located there.)

11.65 Mr Butler said that, after his wife and children were delivered home, he set off in his car alone. He said he did not know what to think as there was no shooting at that time. In Westrock, he was unsure of exactly where, a large crowd with flashlights directed him to the injured person's location. Mr Butler recalled a fellow getting into the car and a person, wrapped in sheets and a blanket, was put into the back with him. (He indicated that there could have been two men in the back, but he only remembered one person getting in with the body.) There was no noise or movement from the body. He did not see any gunfire where he went. Mr Butler drove as fast as he could to the Royal Victoria Hospital, where someone came out and took the injured person from the car. The fellow with the injured person went with them into the hospital and Mr Butler left. Mr Butler later heard that a young girl had been shot and assumed, after talking to neighbours, that it was she whom he had taken to hospital. Mr Butler did not know any of the persons killed or injured on 9 July 1972. His only, and isolated, involvement appears to have been in being flagged down to help deliver Margaret Gargan to the hospital.

11.66 In his 1973 deposition, Mr Butler described the time of being stopped as being "at about 10.35 pm". However, when questioned about this statement, he indicated that he could not recall even making it, nor could he recall speaking to police. He observed that the deposition was undated; and there were other details (such as the car registration) which appeared strange to him since he was not good with numbers. However, he considered that, broadly speaking, the deposition was accurate.

Other (non-military) evidence

11.67 There is a small amount of documentary evidence not provided directly by witnesses which is relevant or potentially relevant to Margaret Gargan's death.

11.68 *Depositions:* In another undated deposition to the 1973 inquest, R Shepherd MB BCh of the Royal Victoria Hospital stated that they certified that Margaret Gargan of 44 Westrock Drive, Belfast, was brought to the Accident and Emergency Department, Royal Victoria Hospital, Belfast on 9 July 1972 and, on examination, life was found to be extinct. No time is given. A short deposition from her uncle, Michael Gargan, recounts identifying her body at the mortuary on 10 July 1972. It also said that he had last seen her at 2.30 pm on 9 July 1972.

11.69 *Autopsy report:* The autopsy report in relation to Margaret Gargan records a history as follows:

"She was a school girl and lived with her parents. She was the eldest of a family of six. On the evening of July 9th, 1972, she was at the Community Centre in the Upper Springfield Road area of Belfast in which she lived. There was a gun battle waging between the Army and the IRA at the time and her father, who was also at the Centre, told

her to go home. At 10.10 pm a man in a nearby street heard a lot of running and assumed it was the children, leaving the Centre. He looked out of his main door and saw two legs of a person lying on the footpath. There was still shooting and it was about 20 minutes before he could reach the person. It was this girl and she seemed to be dead. He went to look for an ambulance and eventually stopped a man and a woman in a Mini-car. They took her to hospital where she was certified dead."

11.70 It is unclear how or from whom this history was compiled. However, it seems likely that some of the information was provided by Anthony Meenan when, in accordance with his evidence, he attended at the hospital with Margaret Gargan and spoke to police at that time. The reference to 10.10 pm would seem to align with the time provided in his 1973 deposition in relation to his having heard a lot of running outside. This time is also mentioned in Dennis Devenney's 1973 deposition as the time of being woken from his rest by his father who was hysterical.

11.71 *Nelly Gargan*: There is also an account, referred to on a number of occasions above when witnesses were asked about it, attributed to Margaret's mother, Nelly Gargan, in the Springhill Massacre Booklet. (I refer to the version in the 1992 edition of the booklet). It is clear that much of the detail here would have been provided by others after the event. It records that Margaret was one of two twins. Her other sister, Bernadette, was the one who "seemed to find herself in the midst of the Troubles". It said that, when there was trouble, Margaret always wanted to go home, which is what happened on the night of 9 July. It described Margaret as the type who loved to wear trousers, not liking frocks or dresses, whose whole life centred around the community centre where her father worked running the bingo. She helped in the centre by running the sweetie shop. After a visit to Kilmainham Jail in Dublin she had developed a keen interest in Thomas Clarke.

11.72 The account goes on to say that on the day of the shooting Margaret was working in the community centre. She came in and asked her mother if she was going out but her mother said no. She asked why her mother would not go round to St John's with Mary McGarry and Nelly said she had no money. Margaret gave her a point, so Nelly and Mary went to St John's. Bernadette and Collete Tate were minding the kids. Later, Tommy Best came into St John's and told Nelly that she better get home as there was shooting in her street. They went "along the hedges" to get onto the Whiterock Road as bullets were flying down past St John's. The shooting was terrible at Whiterock Crescent and she had to run back. Eventually she got home and Harry said that Margaret had been shot. The account notes that a fellow called Arthur Neeson got her body out in a wee car, having lifted her off the street and through Maggie Meenan's house, and brought her down to the RVH. She recalled Margaret's body coming back to the house; and said that shooting went on for three days from 9-12 July non-stop.

11.73 *The booklet Eyewitness accounts:* Two of the anonymous eyewitness accounts contained in the Springhill Massacre booklet also touch upon events specifically related to the death of Margaret Gargan. Eyewitness Two (Gerard Heath) recalled that, as he and his friend were taking shelter near Joe Herald's bungalow, they heard running behind them. He said it was Denis Devenney from Westrock. He had a white shirt on and was covered in blood. They asked him what was happening and he said that the girl had been shot (whom they found out was Margaret Gargan). He had come up "to find out what he could do" and they told him to get away from his own safety.

11.74 Eyewitness Three's account is more directly related to the death of Margaret Gargan. It is in the following terms:

"There was trouble that day so there was. There was an awful lot of panic and they were shooting at anything that moved. We were in the Centre where Margaret used to work. We were only sitting talking you know the way wee girls talk about things. Next thing she fell down. We never heard the shot. Within a couple of seconds she was lying on the ground.

It all happened so quick. Then everybody started to scream. A couple of others tried to get down but they were still shooting. Then we got pulled in. There was still shooting and it was a while before Margaret's body got pulled in. Her body was left lying there, there was no movement, nothing. It just happened like that. She fell and we just screamed and the next thing we got pulled in. Denis Deveney and a couple of other ones try to get us. We were sitting beside the hedges and Denis tried to get over a couple of times. They were shooting down the street, nobody could get from anywhere. When they got Margaret's body they had to bring her down the back way to get to the ambulance, but she was dead so she was. She lay there for a long while before anybody could get at her."

11.75 Eyewitness Four also referred to the body of Margaret Gargan. He indicated that there was a heavy gun battle going on and that he and some mates saw some fellows standing at the corner; one said that there was a body lying in the garden so he and another bloke crawled across. He ran to try and retrieve the body, not knowing at the time that it was a young girl. The British Army fired at them "but thankfully local IRA Volunteers came and gave us covering fire so we could get to the body". They lifted the body and brought it out onto the street. There were a couple of OIRA people, heavily armed, standing doing nothing at the corner. One of them had a car. They were asked to run the body to the hospital but refused, not

wanting to know. At this stage an ambulance arrived and Eyewitness Four ran towards it. The individual later discovered a couple of bullet holes in his coat. He said "the Brits shot dead five innocent people before the IRA even had a chance to return any sort of fire and the only reason the IRA came out was to defend the people". (The reference to an ambulance here seems wrong, since other evidence suggested that Margaret Gargan's body was transported to the hospital in a private car.)

11.76 *Police information:* The relevant RUC Duty Officers' report for the night of 9 July 1972 has the following entry:

"(14) Shortly after 10 p.m. on Sunday, 9th July, 1972, the body of Margaret Gargan, 13 years, 44 Westrock Drive was found lying on the footpath outside No. 8 Westrock Gardens. She had gunshot wounds to the body.

As at Item (14) above it was suggested by local people that she was killed by gunfire from J.P. Corry's Timber Yard."

11.77 The police information sheet for the relevant period has an entry, the timing of which appears to be obscured, which states as follows:

"Ambulance Control report on a person brought in from Springhill area, 13 yr. old girl, dead. Later named as Margaret Gargan, 13 yrs, 44, Westrock Drive found on footpath outside 8 Westrock Gardens about 2200 hrs."

11.78 It is unclear precisely how this report came in and what role, if any, ambulance control had if indeed Margaret Gargan's body was transported to the hospital in a private car as other evidence suggests.

The time of Margaret Gargan's death

11.79 In considering the evidence in relation to Margaret Gargan's death, I have thought carefully, as I have in relation to the other incidents, about whether it is possible to ascribe a time to this death with any kind of accuracy. If it is possible to do so, this may assist with understanding how (if at all) this death tied in with events which were or may have been occurring the wider area.

11.80 On the one hand, this death is somewhat unusual in that, by reason of Margaret's interaction with the activities in the Community Centre (which followed a set time), it ought on one view to be easier to ascribe a limited and hopefully accurate time window to the death than may be the case with some of the other deaths. On the other hand, the variation in the timings provided by different

witnesses, or the same witness in different accounts, along with intervening periods of unknown lengths, has made this analysis more difficult than I had hoped, although not quite as much as was the case in respect of the other incidents.

11.81 Harry Gargan probably provided the most accurate evidence as to the time of Margaret leaving the Community Centre. (As indicated above, I did not consider Marie Meenan's estimate of 8.30 pm to be likely to be correct.) I treat all of the timings provided with a degree of caution given the difficulty of being precise about these matters even a relatively short time after the events, let alone some 50 years later. However, allowing time for the first half of the bingo to conclude and for Margaret to have left after tending to the shop and after discussion of the trouble in Lenadoon had circulated during the break, it appears likely that Margaret would have left sometime around 9.30 pm. It would have taken Margaret a little time to walk to the Meenans' house. There was also evidence that she engaged in conversation there with Elizabeth Meenan and Rosemary Kennedy before she was shot. She was not shot immediately. It is difficult to say how long this period may have lasted.

11.82 In her statement for the purposes of the St Aidan's Inquiry in 1999, Rosemary Kennedy said that, at the time the shooting happened, it was "bright" and "lovely". In a further statement taken on 20 October 2013, she indicated that Margaret stood chatting beside the garden fence for 5-10 minutes. In the handwritten note of the HET interview with Elizabeth Meenan on 9 February 2012 (not the later HET file note dated 4 February 2014), there is a note that they were sitting "not long because sent out from bingo. 20-30 mins".

11.83 It seems likely that Margaret was shot when it was still relatively bright; but that it turned dark shortly thereafter. I say that because, when Mr Butler was flagged down in his Mini, which he placed between 10.00 and 10.30 pm, he said he was advised not to turn his headlights on. He also said that he was then directed to the body by people with flashlights. As discussed in Chapter 3, I take sunset to have occurred at 9.58 pm, with dusk (the onset of darkness) following at 10.51 pm.

11.84 It seems highly likely that the shooting occurred before 10.10 pm. This is the time mentioned in both Mr Meenan's and Mr Devenney's 1973 depositions as when they each became aware of the aftermath of the shooting. I treat Mr Meenan's 1973 deposition with some caution in this regard given the clear discrepancy between it and his evidence to the HET and this inquest that he was not disturbed by children running but, rather, as appears to me to be much more likely, by his sister Elizabeth coming into the house screaming (having been with Margaret at the time she was shot).

11.85 There seems to me to be a significant risk that the police officer taking or preparing the statements which became the 1973 depositions may have got the time of 10.10 pm from somewhere (perhaps Mr Meenan when he arrived at the hospital) and then read that across to the other statement as the most likely time when the

events had occurred. It is hard to know whether the time given at that point was accurate or how it was assessed.

11.86 In any event, assuming the 10.10 pm timing is reasonably accurate, the shooting would have occurred sometime before then, giving time for both Mr Meenan and Mr Devenney to be alerted by third parties. In Mr Devenney's case, it could have been some time before his father noticed the body or woke him up. In Mr Meenan's case, it could have been some time before his sister got to safety herself and/or came into the house to alert her sibling, although it is equally possible that she came into the house immediately.

11.87 The radio entry on the Brigade Log detailing the time of Margaret's admission to the RVH puts this at 22.45 (see the entry at 01.30 on 10 July 1972). Before this occurred, one has to account for the time taken to retrieve Margaret's body from the footpath, which the evidence clearly suggests was impeded by gunfire; the time taken to find Mr Butler with his car and secure his assistance; and the time taken to travel to the RVH. The first of these time periods – the time taken to reach Margaret – was estimated at 20 minutes by Mr Meenan in his 1973 deposition. In his evidence to the inquest, he was clear that there was gunfire and shooting when he was trying to retrieve Margaret from the footpath. When taking Margaret's body down to Britton's Drive, Mr Meenan said that twilight was starting to come. This might well be a reference to the sun having set, rather than full darkness (which only appears to have occurred *after* Margaret Gargan's body was admitted to hospital). I assume the drive to the hospital may have taken in or around 10 minutes.

11.88 Returning to Mr Gargan's evidence, he thought that his father was some 15-20 minutes into calling the second half of the bingo when those in the Community Centre were alerted to the shooting. He estimated this as around 9.45 pm. As noted above, in the pen portrait, he had suggested the news may have arrived slightly later, some 30 minutes into the second half of the bingo. Again, it is likely to have been some time before word reached the Community Centre (although this could be reached quickly from the scene of the shooting); and Mr Gargan's estimates may not, of course, be entirely accurate.

11.89 Putting all of this together as best I can, it seems likely that Margaret Gargan's shooting probably occurred sometime within a time window of around 9.45 to 10.10 pm; and perhaps at or shortly before sunset, that is, sometime shortly before 10.00 pm.

11.90 In John O'Donoghue's evidence, he said he heard shooting at a time he estimated to be around 7.30 pm to 7.45 pm which caused him to go out into the street. His evidence was that, around that time, he heard that someone – whom he later knew to be Margaret Gargan – had been shot further down Westrock Drive. I consider that Mr O'Donoghue's estimate of the time is likely to be incorrect, as discussed in Chapter 10. It may, however, provide some evidence that Margaret Gargan was shot towards the start, or around the same time as, the series of injuries

and fatalities which included Martin Dudley and John Dougal if reports were circulating at that early stage about the shooting of a young girl elsewhere in the estate or area. In light of Gerard Heath's evidence that Denis Devenney arrived at the scene of the circle when he was still pinned down following Martin Dudley's shooting, and before he escaped in an ambulance, I consider it likely that Margaret Gargan's shooting probably *did* occur not very long after the events of incident 1, allowing time for Denis Devenney to give whatever assistance he did in relation to her body and then make his way up to the circle area.

11.91 It is appropriate to note at this point, however, that I think this evidence on the part of Gerard Heath undermines significantly Denis Devenney's suggestion that he travelled with Margaret Gargan to the hospital. I find it difficult to accept that he could have done so (arriving around 10.45 pm) and then walked home, as he suggested, and *then* been seen by Gerard Heath at the circle area. Mr Devenney did not himself purport to have gone to that area. Rather (see para 11.60 above), he recounted seeing people lying at each side of Westrock Drive but did not indicate that he went up. Given Gerard Heath's evidence about having ultimately escaped in an ambulance, I think it likely – assuming he correctly recalls seeing Denis Devenney (which I am inclined to accept) – that Mr Devenney went to the circle area and must have done this at a time which is inconsistent with his evidence. If that is correct, and he did not attend the RVH with Margaret Gargan, it must cast doubt on some other aspects of his evidence. This would, however, explain why he was so unclear on what had happened next and could not recall much of the car journey. It would also explain why Mr Butler (the Mini driver) recalled only one man in the car with Margaret's body. Alternatively, however, this potential conflict may be explained either by Margaret Gargan's shooting having happened at an earlier point than I have considered likely; or Mr Heath being trapped at the circle for longer than I have considered likely.

Military evidence potentially relevant to the death of Margaret Gargan

11.92 For reasons discussed in more detail elsewhere in this ruling, there is very little direct evidence from the military as to the circumstances of Margaret Gargan's death. In short, no military witness volunteered himself as being one of the ciphered soldiers. Moreover, none of the ciphered statements describe shooting, much less killing, a 13-year-old girl. No military witness purported to have seen Margaret Gargan being shot, nor any events directly related to her shooting or death; unless, as I consider to have been the case in the other incidents, some description is given in a ciphered statement which is designed to account for the shooting.

11.93 I have nonetheless considered all of the military evidence in reaching the views set out below in relation to Margaret Gargan's death. In particular, I have considered the content of the ciphered statement of Soldier E (for reasons to which I shortly turn) and the evidence of SM100.

Soldier E's statement

11.94 Mr Vannan's analysis was that the description by Soldier E of the location of a gunman at whom he shot (at the gate of 9 Westrock Gardens) bore some similarities to the descriptions by civilians of the shooting of Margaret Gargan at the end of the garden path of 8 Westrock Gardens. He explained this on the basis that the two locations are quite close together (approximately 42.8m apart) and both relate to the entrance to gardens of properties in Westrock Gardens (shown on his Figure 30).

11.95 Soldier E's statement does appear to record that he shot and killed a person in the location of Westrock Gardens and, indeed, this is the only ciphered statement which appears to record a 'hit' in that general area. The relevant portion of his statement is as follows:

"Shortly after that, a heavy machine gun started firing from the area of Corpus Christi Church. I was unable to see this machine gun, as it was out of my field of vision. I continued to observe the Westrock area, and by this time, it was turning dusk; it was about 2200 hours. When firing was directed at my location from the direction of 9 Westrock Gardens, I located the gunman standing outside the gate of 9 Westrock Gardens. He was about to fire again when some people came from the Community Centre, by Corry's Wall, and passed in front of him. When the people had passed, he returned to the aim position. I fired an aimed 7.62 round and saw my round hit him in the chest, and he fell to the ground, his weapon still in his hand. He was about 5'8" tall with long, dark shoulder-length hair, and wearing blue denim jacket and trousers; he was about 20 years old. He lay where he fell for about three-quarters of an hour, and some people dragged him, feet first, into 9 Westrock Drive."

11.95 There are some potential similarities between this account and that given by civilian witnesses of the death of Margaret Gargan. These include the following: (a) both events occurred in Westrock Gardens; (b) both happened around 10.00 pm and/or as it was turning dusk (if this is understood to refer to sunset), as discussed at para 11.83 above; (c) there is a common theme of people leaving the Community Centre (described by Soldier E as the community centre "by Corry's Wall" and distinguished from the "new Community Centre" he also discusses in his evidence, which was closer to Corpus Christi Church); (d) the individual described is said to have been at the entrance to a property; (e) the individual described is shot and falls; (f) the individual described was wearing a blue jacket and trousers (the autopsy report, which noted the clothing removed from the body, indicates that Margaret Gargan was wearing a blue zippered-up anorak and fawn corduroy trousers); and (g)

the individual who was shot then lay for some time before being dragged into a house.

11.96 There are also, of course, some differences between this account and that given by civilian witnesses of the death of Margaret Gargan. The most striking of these is that Soldier E says that the person he shot (who lay for 45 minutes before being dragged away) was a gunman. The implication is that this person had already fired at his location in Corry's Yard and, having returned to the aim position, was about to do so again. Other than that, there are the following discrepancies: (a) Margaret Gargan appears to have been shot at 8 Westrock Gardens, whereas Soldier E refers to 9 Westrock Gardens (and, later, 9 Westrock Drive); (b) Soldier E describes hitting the individual in the chest, whereas Margaret Gargan was shot in the face; (c) the gunman described by Soldier E is taller than Margaret was (5'8", as opposed to her height of 5'4"); (d) the gunman described by Soldier E had shoulder-length hair, whereas Margaret had short hair; and (e) the gunman described by Soldier E was about 20 years old, whereas Margaret was only 13. This list is not intended to be exhaustive. There are other matters, such as the length of time the body lay in the street, which may or may not be consistent. The impression I have is that Soldier E's estimate (45 minutes) is potentially significantly longer than that suggested by civilian witnesses (e.g. the 20 minutes suggested by Anthony Meenan).

11.97 A key potential discrepancy is the address which is referenced. Soldier E refers to 9 Westrock Gardens, whereas I am satisfied that Margaret Gargan was killed outside 8 Westrock Gardens. These properties are not, as one might initially expect, next door to each other. Rather, 9 Westrock Gardens is to the northeast of 8 Westrock Gardens, at the other side of the road and joined to No 11, not very far away from No 8 but not adjacent to it. There is another No 9 nearby, which is 9 Westrock Drive, which is another bungalow which has a boundary with Westrock Gardens (although it is also accessed from the cul-de-sac element of Westrock Drive) and is just a few houses up the road from 8 Westrock Gardens. This was liable to cause confusion. It could account for the identification of a property thought to be 9 Westrock Gardens on the same side of the road as No 8. (Some clarity in relation to this issue, as to which address was *actually* 9 Westrock Gardens and which 9 Westrock Drive, was brought by the evidence of Harry Gargan who, as well as having lived in the area, had also worked as a postman there.)

11.98 On balance, I still consider that the incident described by Soldier E is likely to relate to the same incident in which Margaret Gargan was shot and killed. That is not to say that I accept the content of Soldier E's statement as accurate or correct. As discussed elsewhere in this ruling, I have very significant reservations about a good deal of the content of the ciphered statements. However, I consider that there is likely to be at least some correlation between the deaths which were caused that evening and the description of at least some 'hits' in the ciphered statements. Whether one assumes (on the one hand) that the ciphered statements were given in good faith and are largely accurate, or whether one assumes (on the other hand) that they were a cynical attempt to justify shootings which were in fact unjustified, in

either case the account given would have to seek to explain deaths or injuries which had in fact been caused. If the reference in Soldier E's statement to shooting someone at 9 Westrock Gardens does not refer to the shooting of Margaret Gargan, it is very difficult to see to whom it could be referring, knowing what we now do about the location of those who were shot and seriously injured that evening.

11.99 As discussed at a number of points previously, I have concerns about the accuracy of some of the addresses given in the ciphered statements. I would not take the addresses as being wholly accurate given the circumstances in which the statements were taken and the likely lack of access to clear and legible maps as indicated in Chapter 7. Even if maps were available, it may not be possible to ascribe an address correctly to a property which is only viewed from a distant and elevated vantage point. It seems to me quite possible that the reference to 9 Westrock Gardens and/or 9 Westrock Drive could be mistaken references to the location at which Margaret Gargan was shot.

11.100 It would also be quite possible for the soldier to be mistaken about the position on her body where Margaret had been hit, particularly if she was hunkered down or lowering herself to that position when struck. It would similarly be quite possible for him to be mistaken about some of the finer details of her appearance or clothing (for instance, whether her blue jacket was made of denim or not, her precise height or age, or the exact length of her hair). Although Soldier E refers to the person he shot being beside a gate, and the other evidence suggests that there was no gate at the entrance to 9 Westrock Gardens where Margaret Gargan was shot, the soldier might well have assumed that there was a gate there when this was not the case but the opening was obscured by high, wide hedge.

11.101 As discussed further below, on the basis of a civilian evidence, I am satisfied that Margaret Gargan was not armed at the time she was shot. I consider the discrepancies between Soldier E's account in the ciphered statement and the evidence of civilian witnesses to be likely to be explicable on the basis of mistakes on his part and/or an effort on his part to bolster a suggestion that the shooting was justified. On balance, the similarities between the two accounts, particularly in terms of timing and broad location, lead me to the conclusion that it is more likely than not that – even if mistaken, inaccurate or mendacious – Soldier E's account is referring to essentially the same incident; and that he is the soldier who shot Margaret Gargan (assuming, which I consider established on the basis of the civilian and ballistics evidence, that she was indeed shot by a soldier positioned in Corry's Yard).

SM100 and the hole in the wall

11.101 SM100 gave evidence which was treated as potentially relevant to the shooting of Margaret Gargan. As discussed in Chapter 4, he adopted two different statements as his evidence in the inquest. His evidence was that in 1972 he was in C Company, 9 Platoon of 1 Kings. He was a rifleman and not a sniper. He described events which appear to relate to 9 July 1972. He said he was "not involved in the

main gun battle” but, even though he was not sure of the date, referred to having heard a couple of days later that Fr Fitzpatrick had been killed.

11.102 SM100 explained that he was patrolling the yard at the Westrock side. He thought SM10 had reported to command that there were gunmen in the area. He described that there was a hole in the yard’s boundary wall. He described this as being towards the far right-hand side of the wall if you were looking at the yard from Westrock. He marked the approximate location of the hole as ‘A’ on a map appended to his statement. (This is towards the eastern end of the property at No 5 Westrock Gardens.) In oral evidence he described the hole in more detail: part of the wall had been knocked down and there was a pile of bricks you could walk over to access the yard. SM100 thought the hole had only been there a few days before the incident, otherwise the army engineers would have come in and repaired it.

11.103 SM100’s evidence was that SM10 told him to watch the hole in the wall and make sure no-one came in. SM100 said that, if gunmen had come into the yard, this would have been extremely dangerous. He marked his own approximate position, where he was watching the hole from within the yard, as position ‘B’ on the map attached to his statement. However, he said that he was not static in that position and moved about from time to time. (In the map attached to the earlier statement drafted by my investigator, he had marked a point at the northeast corner of the large woodshed, which was in the same general area of the yard premises, but slightly to the west of location ‘B’ on the later map. Both markings were in my view broadly consistent. Again, he described that this was to prevent persons getting through a hole in the perimeter wall.) SM100 was focused on monitoring the gap in the wall. He stressed that the positions he had indicated were approximate. As the piles of wood in the yard moved around, he was not sure where the wood piles would have been on any particular day.

11.104 SM100 said that he heard vehicles arriving at the yard, which he assumed was a QRF responding to SM10’s call. He assumed that these soldiers were from 7 Platoon which was providing the QRF. He did not see any of them from his location but described hearing them moving about and, later, hearing incoming and outgoing fire and seeing flashes from the soldiers firing back. (This is all discussed in further detail in Chapter 4.) In any event, SM100 remained in his location guarding the hole in the wall. He said he remained there for a long time, probably until around 12.00 noon the following day. He was on his own guarding the hole in the wall and described this as a terrifying night.

11.105 His evidence was that there was one point when about five people came to the hole in the wall to come through. He heard them coming along the wall, talking. He moved position and looked out and saw them. One of them then came up into the gap. By that time SM100 had moved back to a position away from the immediate location of the hole in the wall. He roughly estimated that he was about 30 yards away. He said it was dark but with some lighting. The man was a silhouette but he could clearly see him and that he was carrying a rifle. SM100

challenged the man to halt. The man immediately turned round and pointed the gun at him. SM100 fired two shots at him because he thought that the man was going to shoot him. SM100 does not think that he hit the man. The man disappeared from the hole and the people he had been with also left. The man did not fall to the ground; and SM100 heard no sound from him or anyone else to suggest that he had been hit. When it got light, he went over to the hole and could not see any blood. SM100 marked his approximate location at the time when he fired as 'C' on the map appended to his statement, with a line for the approximate line of fire.

11.106 In his second statement, no time is ascribed to this event. However, in the statement drafted by my investigator on foot of the answers he provided at interview, it is said that the gunman came through the hole in the wall "at some stage just as it was getting dark, possibly about 10pm". On the map appended to this earlier statement, SM100 had marked the position of the gunman, which appears to be further west of the hole marked on the map exhibited to his later statement. The earlier map has the gunman at the boundary of the properties at Nos 21 and 29 Westrock Gardens; whereas the later map has the gunman at a point bordering the property at No 5, much closer to the Westrock Community Centre. In oral evidence, SM100 accepted he could not now be sure where the hole was, but it was along the stretch of wall he indicated. In his first statement, some additional detail is provided. Again, SM100 said he did not know if he hit the armed man or not but that they went back through the hole. The person he saw was a silhouette only and had what SM100 believed to be an Armalite gun, which is a lot smaller in length than an SLR. They were wearing dark clothing.

11.107 In oral evidence, SM100 was asked in some detail about the location of the hole in the wall which he had described. He could not be sure of this. He was also asked about the direction of his fire. He said he had fired at the man coming through the hole in the wall. His evidence was that he was near the little building to the west of the hole (now shown on the map but not there at the time) and his firing angle was more towards the social club at the end of the wall. He said on a number of occasions that he was more towards the woodshed; he did not want to be positioned opposite the hole. He also said that he could not see houses through the hole as he was lying on the floor and the pile of rubble in the hole was about four foot high. He could not see over this and was shooting upwards. The gunman was on the top of the rubble as he came through the hole.

11.108 SM100 strongly denied that he could be Soldier E. He drew attention to a range of discrepancies between his position and the description in Soldier E's statement. (His account was different; he did not have a sniper scope; and he was not in the QRF, nor in 7 Platoon). I found SM100's evidence convincing on this point. As noted elsewhere, SM100 said that he had to account for his rounds discharged and that he was later interviewed by the RMP (at a much later stage than the ciphered soldiers, on his evidence). However, he was clear that none of the shots

described in the ciphered statements or in the RMP plan were those he had discharged.

11.109 In Mr Gargan's third statement he said that, as far as he could remember, there was never a hole in the wall of Corry's where SM100 had indicated in his evidence. Mr Gargan lived in Westrock for over 20 years and said that the only hole he recalled in the wall of Corry's Yard was in the southeast corner of the wall (but he believed that this was much later in the 1970s, or possibly even 1980). Mr Gargan's evidence was that it was possible to walk along a large section of the bottom of the wall at Corry's Yard but, from Joe Doherty's bungalow (which he suggested was 14 Westrock Gardens in his statement but No 16 in his oral evidence) until the fence of the Community Centre, the houses all had garden fences that ran right up to the wall so that you could not walk along the bottom of the wall behind these houses. Mr Gargan marked on a map the points between which the wall was inaccessible, such that it would not be possible for people to gather between those locations. This included the area where SM100 had suggested there had been a hole, particularly in his first statement which had been prepared by my investigator. Mr Gargan's evidence was that there was "no way a hole could have been made in the wall where SM100 was describing". However, on the basis of his oral evidence, it sounded to me as though it would have been *possible* to access this area of the wall albeit that this was obviously not done regularly, if at all, because it involved traversing people's gardens (and, in some instances, fences and hedges).

11.110 In questions from Mr Turkington on behalf of a number of military PIPs, Mr Gargan accepted that, whether or not there was a hole between points A and B on the map he provided, at the relevant time he would have been oblivious to it (having no reason to go there and, on his version of events, being unable to access it). Although in general I found Mr Gargan's evidence to be credible, on this particular point it appeared to me that he was going out of his way to seek to discredit other evidence (that of SM100) in a manner which perhaps lacked objectivity and where he was not, in fact, in a position to speak authoritatively about the matter upon which his evidence sought to join issue. He may be correct but I wondered whether his approach to the issue was too dogmatic to be objective.

11.111 There was little other evidence about this hole. SM117 said that he never saw or heard about a hole in Corry's wall, although he also said he never walked around the wall. SM79 described the hole knocked in the wall in May when the proposed OP at the southwestern corner was knocked down. After that, he said he never saw any other hole in Corry's wall. Perhaps strikingly, in the Corry Diary published in the book *Seize then the Hour*, discussed in some detail in Chapter 3, there are references to damage to the Corry's premises during some 10 days of attacks after 9 July; but there appears to be no reference to a hole in the wall; and nor do the entries for the immediately preceding dates reference this. At the same time, there are entries in the army radio logs for the night which suggest that a gunman had managed to get into the complex and had to be cleared out. Other military evidence suggested that gunmen could occasionally seek to climb over the wall. However,

another means of entry would be if there was a hole in the wall; although that would also require SM100 to be wrong in his evidence that he effectively repelled any oncomers during the night.

11.112 Ms Kiernan considered the evidence in relation to this issue in her report. She said that it was not possible to identify whether the hole existed in the wall of Corry's Yard based on the available material (or, if so, the exact position of the alleged hole). In those circumstances, it was not possible to indicate any lines of sight or where the direction of shots (if shot through the hole) would be.

11.113 The issue of 'the hole in the wall', as it came to be referred to during the course of the inquest, is potentially important in a number of respects. In the first instance, it is relevant to whether SM100 actually struck anyone with the rounds he fired; in particular, whether it is possible that one of these rounds struck and killed Margaret Gargan. In the second instance, it is nonetheless relevant to try to ascertain how, if at all, this incident fits in with the wider events of the night.

11.114 I was inclined to accept SM100's evidence about this incident. He described vividly his experience watching the hole; his actions when someone sought to come through the hole; and his fears throughout the rest of the night, culminating in checking the scene for blood the next morning in case he had struck the gunman at whom he fired. As indicated in Chapter 4, I broadly found his evidence to be credible; and he was one of the few soldiers willing to place himself in Corry's Yard on the night in question and identify other soldiers he believed to be there. He had volunteered in 2016 to the MoD that he was present and could do so. There are, however, some concerns I have about the reliability of this evidence. It is unusual that no other soldier gave evidence about the hole in the wall; that it does not appear to be referenced in any army logs; and that no other evidence supports it (including the Corry Diary account). There is no real explanation as to how it came to be present, whether by someone knocking the wall through or some kind of explosive device such as a blast bomb, or otherwise. SM100 also indicated that he was later interviewed by the RMP because of the discharge of his weapon and I have seen no record of that; although he also explained that he went from guard duty at Corry's to guard duty at Black Mountain for a few days and only had to account for the rounds discharged upon his return from that duty several days later.

11.115 I also take into account that, when responding to the 2016 MoD inquiry about soldiers possibly present, SM100 indicated in his response that he was on duty manning the permanent observation post in Corry's (see para 7.153). That is, of course, entirely consistent with his having been in the yard that night on guard duty with 9 Platoon; but it is not consistent with his having been stuck guarding the hole in the wall all night, which he vividly remembered. This consideration has shaken my confidence in the truth of SM100's account about his own precise actions and whether, in fact, he was elsewhere within Corry's whilst on guard duty that night.

11.116 In any event, assuming the hole did exist and SM100's account is truthful, I do not consider it likely - and certainly could not conclude on the balance of probabilities - that Margaret Gargan was struck by a stray shot from SM100. As discussed further below, I have concluded that the shot which struck her is more likely to have come from another direction (west of her position, rather than north of it). In addition, taking SM100's evidence at face value, it does not appear to me at all likely that one of his shots could have struck Margaret Gargan. If his line of fire was as he described (oblique to the hole in a west-north-west to east-south-east direction in my understanding of his evidence), this is highly unlikely to have put Margaret Gargan in the line of fire. If the hole in the wall was positioned where SM100 indicated in his later statement (which is where his evidence settled), this is extremely unlikely, if not impossible. If the hole was further to the west, the line of fire still appears to me to be away from Margaret Gargan's location and, in any event, interrupted by the bungalows. Moreover, given SM100's evidence that he was in a prone position firing upwards, it seems even more unlikely that his fire could conceivably have been responsible for Margaret Gargan's death. Taking into consideration the ballistics evidence about the injury being a direct strike, I do not believe it likely that Margaret was killed by either of the shots SM100 described in his evidence assuming his account of the hole in the wall was true.

SM13

11.117 In the course of his evidence SM13, the 2IC of C Company, was being questioned about what he heard about the shootings in the immediate aftermath. He gave evidence about hearing of Fr Fitzpatrick going to give the last rites to a person who was shot. When asked if he had heard any other 'chat' in relation to the others who had been killed, he said that the only other thing he heard was that a girl had been killed by an 'over-shoot'; but not in Ballymurphy, somewhere else. He said shooting was going on in Ballymurphy by B Company, not C Company, and a 7.62 round went across to Beechmount. He believed this was at the same time as Fr Fitzpatrick was shot but said that that was all he knew. He later said this was not in Ballymurphy or *Springhill*. She was out of the area and it was an accident. He did not know if this was by an army round, as gunmen had Kalashnikovs. He explained that an 'over-shoot' was a stray shot. It was difficult to know what to make of this curveball; but it seemed to me to be highly speculative, unsupported by other evidence, and unlikely to relate to Margaret Gargan's shooting in view of the reference to the incident not being in *Springhill*. I consider the findings made below to be much more likely on the evidence for the reasons given.

The intelligence relating to shooting into New Barnsley

11.118 I have also considered the suggestion, contained within an intelligence document from January 1974, that an individual firing a gun from a location on the Springmartin Road into the New Barnsley estate may have shot and killed a 13-year-old girl. (This document does not expressly indicate that the girl killed may have

been Margaret Gargan; but, in light of the content of the document, it was considered that it may refer to Ms Gargan's death).

11.119 In my view, this intelligence is, of itself, to be given very limited, if any, weight. It dates from a year and half after the events in question. It appears to recount an event "approximately two years ago", i.e. in or around January 1972. The report, in the third person, suggests that an individual "believes" that he shot and killed a 13-year-old girl, noting that "a priest was also shot at the same time". The reference to the shooting of a priest may link the incident being referenced to the deaths in Springhill. However, very little detail is provided. The extent of the intelligence is that someone believes they shot and killed an unidentified 13-year-old girl. No basis for the belief is set out. There is no supporting or corroborating evidence, merely a statement of concern quite some time after the event. Moreover, the individual was said to be firing "into New Barnsley Estate", which is not the area in which Margaret was killed. Unlike some other intelligence material to which I have given some weight in this ruling, the report is not corroborated; does not arise from consistent reporting; does not tie in with other evidence or inferences; and/or does not contain any indication of having been assessed as reliable.

11.120 Most importantly, however, Ms Kiernan dealt with this suggestion in her evidence and (even ignoring the reference to New Barnsley) indicated that there is no direct line of sight from Springmartin into Westrock Gardens. Taking these factors into account, I believe I can confidently discount this as an explanation for Margaret Gargan's death. In all of the circumstances, the explanation described below is far more likely (and, in my judgment, established on the balance of probabilities).

Discussion of particular aspects of the evidence

11.121 The shooting of Margaret Gargan in incident 3 was the death in this inquest which I found least difficult to resolve. That is not to say that understanding or establishing the circumstances is not without difficulty. However, whilst broadly related to the other incidents (particularly incident 1), it is relatively discrete, occurring away from the more chaotic scenes at the circle area and with a limited number of key witnesses.

11.122 I am satisfied on the basis of the expert evidence discussed in detail in Chapter 8 that the shot which struck Margaret Gargan was a direct strike and not a ricochet. She was killed immediately. I am also satisfied on the balance of probabilities that the shot which killed Margaret Gargan was fired from Corry's Yard by a soldier.

11.123 Significantly, Margaret was shot directly in the face at a time when I am satisfied she was looking up Westrock Gardens (east to west) towards Corry's Wood Yard at the end of the road. It seems to me more likely than not that the shot was an aimed shot. In her oral evidence Ms Kiernan confirmed that she would expect

somebody, from a head shot, to fall backwards (although she felt that Prof Crane would be able to address the more medical aspect of that). I am satisfied that Margaret Gargan, when struck, fell backwards and that her feet were then pointing up Westrock Gardens (east to west). This happened on the pavement just outside the side entrance of 8 Westrock Gardens onto the road.

11.124 Other than the suggestion contained within the ciphered statements in general (that the army shot only at those who were armed), and the similar suggestion in the ciphered statement of Soldier E in particular (considering, as I do, that it seeks to explain to the shooting of Margaret Gargan around her location), there is no evidence that Margaret Gargan was armed at the time. On the contrary, there is clear evidence from Elizabeth Meenan and Rosemary Kennedy that Margaret Gargan was speaking to them at the time she was shot and that she was unarmed at the time. I believe their evidence in this regard. I also consider it appropriate to place weight on the evidence of Marie Meenan, which is to similar effect. Even if I am wrong to find that she was present and had direct knowledge of the circumstances, I would reach the same conclusion on the basis of Elizabeth Meenan and Rosemary Kennedy's evidence alone. I have also taken into account that there is nothing whatever in Ms Gargan's background, or any intelligence material (as to which there was none relating to her: see para 6.110), to suggest any likelihood that she may have been armed or in any way involved in paramilitary activity.

11.125 Prof Crane's evidence, and Ms Kiernan's evidence, was to the effect that the lead detected on Margaret's left hand could have come from a non-firearm source. However, even assuming it was firearm related, it (and the specks of lead on her clothes) could have come from the bullet which struck her. The trace of lead on her hand could also have come from her own clothing. Again, this could have been caused by the bullet which struck her, or other bullets fired or striking in her vicinity. This could also have been caused by shooting *after* her death, the evidence being that there was shooting which precluded her body being recovered; and a suggestion in the Springhill Massacre booklet that there may have been civilian fire afterwards to facilitate her recovery. Ms Kiernan's evidence, discussed in detail in Chapter 8, was particularly strong that the reporting of lead could simply be explained by the gunshot injuries Margaret sustained. There is no proper basis for concluding that this is evidence of Margaret having been in possession of or using a gun.

11.126 The evidence of Ms Kiernan in this regard was strengthened by that of Ms Gray, whose conclusions were similar but perhaps expressed in stronger and more full terms. This evidence has also been discussed in more detail in Chapter 8. In summary, however, I am satisfied that given the wide range of possible explanations for the limited findings of lead on Margaret Gargan's hand and clothes, this cannot be taken as evidence of Margaret having been in possession of, or having discharged, a firearm. I have reached this conclusion taking into account the fact that Soldier E's account indicated that the gunman he shot in Westrock Gardens fell

to the ground with his weapon still “in his left hand” and the fact that lead residue was found on Margaret Gargan’s left hand.

11.127 All of the directly relevant civilian evidence points against Margaret Gargan having been armed. None of the direct eyewitnesses who saw Margaret at the time of her death saw her with any form of weapon, or indeed posing any kind of risk. Nor did any witness who saw her at, or leaving, the Community Centre. I also consider it inherently implausible that a 13-year-old girl would have left, or been sent out from, the Community Centre to engage in armed attack on soldiers in Corry’s Yard (or even to convey a firearm to someone else). On the basis of Harry Gargan’s evidence about the circumstances in which his sister was at and left the Community Centre, I consider it inherently implausible that she would have been armed or engaged in armed attack on soldiers shortly thereafter.

11.128 I also consider it unlikely that Margaret Gargan, or the girls with her, would have been in the street idly chatting in the event that there was any kind of gun battle going on or confrontation between troops and armed civilians. Whatever temptation teenage curiosity might have posed in such a situation, I consider that the survival instincts of some or all of the girls would have caused them to retreat into the Meenans’ garden or house.

11.129 The evidence (such as it is) which suggests that there was *civilian* firing at or around the time of Margaret’s death, is more consistent with this occurring *after* Margaret had been shot, at the time when attempts were being made to recover the body. There was no evidence of this from any of the civilian witnesses who were direct eyewitnesses of the death, or even its immediate aftermath. As discussed elsewhere, the army radio logs do not disclose any fire in the Corry’s Yard area between 21.00 and 22.03. The entries in the Battalion Log at 22.03 and 22.12 record fire from the area of Corpus Christi Church, rather than the area of Westrock Gardens. Other than the content of the ciphered statements – which do not address the area of Westrock Gardens at all save for the statement of Soldier E – there is no significant, if any, evidence of civilian fire from this area.

11.130 The height of the evidence in relation to civilian firing at or about the time and location of Margaret Gargan’s death (leaving aside Soldier E’s statement) are the accounts attributed to Eyewitness Three and Eyewitness Four in the initial version of the Springhill Massacre Booklet. Eyewitness Three refers simply to there being “trouble that day”. That is no proper basis for a conclusion that there was firing at soldiers at the time of, and in a location proximate to, where Margaret Gargan was killed. If anything, it merely confirms that there had been some trouble before the time of Margaret Gargan being shot, which I consider to be correct, but relating to a different location.

11.131 The army narrative *can* draw some support from the account of Eyewitness Four. It refers to a “heavy gun battle going on”. However, this appears to relate to a time when Margaret Gargan had already been killed, given the reference to the

“body lying in the garden” which transpired to then be the body of a young girl. The suggestion that local IRA volunteers then “came and gave us covering fire so we could get to the body”, even if correct, on its face relates to some time after the young girl had been killed. It may support the proposition that IRA gunmen returned to the area swiftly after the initial firing incident at the car in which Martin Dudley was struck. Again, however, I do not consider this to be a proper basis for a conclusion that, at the time Margaret Gargan was shot, the army was under armed attack from her location.

11.132 No evidence has been provided which causes me to disbelieve or depart from the civilian evidence provided by the eyewitnesses referred to above to the effect that Margaret was unarmed and there was no firing from her location at the time of her death. I also find that there was no warning given to Margaret Gargan. There was no suggestion in any of the evidence that a warning was given to her (assuming, which is unlikely, that that was practicable); or that a warning was heard before her death.

11.133 I have already indicated that I consider that Soldier E’s account was an attempt to explain the fatal shooting of a person near the location mentioned (who was, in fact, Margaret Gargan). I am driven to the conclusion that this account of her being armed was either mistaken or the product of dishonest embellishment after the event.

11.134 Although similar such findings are not unheard of in legacy inquests in this jurisdiction, I would not lightly make a finding that a young girl was intentionally shot by a soldier in circumstances where she was posing no risk and was *known or believed* to be posing no risk. Several military witnesses professed surprise and shock at having learned in recent years that a girl as young as 13 had been killed in the Springhill incident. As discussed in further detail in Chapter 12, I consider it highly likely that the soldiers in question were on a high state of alert and anticipating armed attack against them in all of the circumstances, whether or not actually responding to such an attack in some or all of the instances under consideration in this inquest. I have considered the possibility that, at the time the shot was fired, the relevant soldier was mistaken as to the risk which Margaret Gargan may have posed for the following brief reasons.

11.135 Several of the witnesses who gave evidence described Margaret Gargan in terms which suggested that she was a tom-boy or dressed like a boy, such that she might have been mistaken (particularly from a distance) as a young man. For instance, a short contribution in the Springhill Massacre booklet from Margaret’s mother Nelly Gargan (who passed away in 1992) indicated that Margaret was the type who loved to wear trousers and she did not like frocks or dresses. This was consistent with the evidence of a number of others. It is possible that Margaret Gargan was mistaken for a young man who was taking up, or had taken up, an offensive position by crouching down beside a hedge in a position which gave a line of sight up to soldiers’ positions in Corry’s Yard. If civilian shots were being

directed at Corry's Yard from other parts of the Westrock or Springhill areas at the time, or if such an attack was anticipated, it could be that Margaret Gargan was mistaken for someone who was, or was about to be, involved in such an attack, particularly if (i) the friends to whom she was talking were not visible because they were set back in the entrance-way to 8 Westrock Gardens behind the high hedge and (ii) her being on her hunkers, or lowering herself down to her hunkers at some point, beside the hedge, was taken as her being in or assuming a position of cover or concealment.

11.136 In his interview with the HET, SM100 had indicated that many of the gunmen who shot at Corry's Yard generally around that time drank in the social club on the left as the soldiers looked over the wall into Westrock (i.e. at the Community Centre). He said they would at various times take a position, fire into Corry's, and then return to the social club. This would be repeated many times during the day. He also said that, at times, the gunmen would take up a position behind a small brick wall situated between the bungalows and Corry's wall, whereby a brick would be removed from the wall for the gunman to shoot through whilst maintaining cover. It is possible that Margaret coming from the Community Centre, or being at that location at a time when *others* were coming from the Community Centre (or at least from its direction), as described by SM100 in his account of the incident at the hole in the wall, may have added to any mistaken sense of risk posed by Margaret Gargan at that time.

11.137 Ultimately, however, I have not been persuaded on the balance of probabilities that this is a proper explanation for the shooting of Margaret Gargan, particularly in the absence of oral evidence to this effect from the soldier who discharged the fatal shot. Although Soldier E's account in the ciphered statement may be argued to be supportive of such a view, it is also possible (and in my view likely) that it was simply created after the event to justify a death which the soldier knew - either at the time or sometime after the death had occurred but before making the statement - that the individual shot posed no risk at all. Given that Margaret's body lay for some time before it was retrieved into the Meenans' garden, I believe it very likely that Soldier E realised, after she had been shot, that she had been posing no risk such that the later contention that she was an armed gunman was self-serving.

11.138 Moreover, I take into consideration that the account given by Soldier E does *not* suggest that he shot a gunman crouching down taking cover beside a hedge. Rather, it claims that the alleged gunman in Westrock Gardens had *already fired* at his location; was *standing* at the gate; and then returned to the aim position (with no indication that this involved a crouching motion). It also, curiously, appears to suggest that the gunman politely waited for others to pass in front of him before readying himself to fire again. I do not consider that this account bears any resemblance to the reality of the situation in fact, which involved a young girl talking to her friends on the street.

11.139 The situation at this location is far removed from the potential threat which may have been perceived (rightly or wrong) at the scene of the circle, with a car or cars which may have been deemed suspicious, a number of men dispersing to cover, and a range of others approaching the scene. From the soldier's position of shelter and concealment within the wood shed, I consider that he would have had at least some time to examine and assess Margaret Gargan's demeanour and actions before opening fire on her. I accept the evidence that she was talking to her friends for at least some minutes before she was shot.

11.140 Again, however, in the absence of having heard oral evidence from the soldier, it is difficult to second-guess what exactly was in his mind. It is conceivable he made some kind of mistake, however grave, which he tried to cover up later.

Conclusions arising out of the evidence

11.141 In view of the above, I find that Margaret Gargan was shot on the pavement at Westrock Gardens, just outside the side gate of 8 Westrock Gardens, at or about 10.00 pm on 9 July 1972. She was shot in the head by a soldier positioned in Corry's Timber Yard, more likely than not to have been Soldier E, whilst facing the yard, west up Westrock Gardens, and talking to some friends. This was a direct, aimed shot and not a ricochet. She died immediately from the injury to her head and brain. At the time of her death, Margaret Gargan was unarmed and posing no risk to anyone. I consider, on the balance of probabilities, that no one else in her immediate vicinity was posing any such risk at the time when she was shot.

11.142 Although the distance from Soldier E to Margaret Gargan was further than that from Soldier A to those killed in incident 2, perhaps around 160m, I nonetheless consider that, in the lighting conditions and from his concealed position within the woodshed, Soldier E would have had sufficient time and opportunity to assess Margaret Gargan's actions and demeanour in order to properly assess what risk (if any) she posed. In fact, she posed no risk, talking to her friends in the street. I consider it unlikely that Soldier E formed an honest belief that he needed to use force to defend himself or others from Margaret Gargan. The more likely explanation is that he fired prematurely, having lost control further to the shooting at the circle area addressed in Chapter 9, and shot without having first made a proper assessment of the risk (if any) which she posed. In the event that he did form such a belief, this was not reasonable.

12. DRAWING THE STRANDS TOGETHER

12.01 In the course of Chapter 1, I spent some time acknowledging the difficulties which exist in conducting an inquest at this time, more than 50 years after the events in question (see paras 1.11 to 1.19). Those difficulties are compounded where there is more than one death, a variety of events occurred in slightly different locations, and the events were likely chaotic but also highly contentious. Before concluding, it is worth emphasising two features which arise in coronial investigations of this type. First, memory is fallible and far from wholly reliable, even when a witness is doing their best to be honest. Second, it is quite possible that certain issues – even important ones – cannot be resolved in a way which permits the coroner to reach a conclusion on the balance of probabilities one way or another.

The frailties of memory

12.02 Piecing together a detailed narrative of complex events over 50 years ago is an inherently difficult task, even in circumstances where there are direct eyewitnesses willing to give evidence and who do so honestly and to the best of their recollection. The courts in this jurisdiction recognise that, in historic cases such as this, the passage of time is always a relevant factor and sounds on the strength or weakness of testimony: see, by way of example, the comments of Keegan J in *Re Jordan's Application* [2017] NIQB 135, at para [34]; and the comments of Horner J, sitting as a coroner, in the underlying inquest proceedings at [2016] NICoroner 1, paras [76]-[79]). Human recollection is fallible; it generally becomes more unreliable with time; problems with memory are compounded by delay; genuine witnesses may have distorted memories which forget or remember things to fit with their perception of what they believe happened.

12.03 For these reasons, honest witnesses may sometimes be mistaken in their recollection and the court must be cautious about accepting evidence, particularly where uncorroborated, simply because a seemingly honest witness asserts it, even confidently.

12.04 A further feature in this case was the possibility that a witness may be confused with another event which they experienced or recalled; or, even if not confused, have projected a memory in relation to one event onto another. That was a possibility on both sides of the evidence in this case. For instance, many soldiers were concerned that their recollections relating to Corry's Yard may, in fact, relate to another incident they had experienced there (in particular, the attacks on the yard in May 1972). On the civilian side, a number of witnesses (such as Bernie Callaghan and Gerard Heath) had recollections of the subject matter of the Ballymurphy Inquest which may have affected their memories. No doubt others had memories of other shooting incidents in the area.

12.05 Added to this is the impact on a witness, whether consciously or subconsciously, of other matters they have heard over the years, in specific

discussions with others or as general talk, which may have influenced their memories or perceptions. Again, this is likely to have had some effect on both sides of the evidence. I am satisfied, by way of example, that there has been discussion amongst some soldiers who were or may have been involved in the incident, or who knew others who might be, which may have influenced their beliefs or perceived recollections of what happened. There was obviously some talk about such matters in the weeks or months after the incident (most notably in relation to the possible involvement of Kgn Felmingham); but also, I believe, more recently in anticipation of the inquest proceedings (as SM79's and SM189's evidence illustrates). On the other hand, there has been a long campaign by the next of kin of the deceased and others in the Springhill and Westrock communities for a full, independent judicial inquiry into the deaths. That campaign was entirely justified, as indicated by the order of the AGNI that a new inquest should be held and the verdicts given in Chapter 13. However, the campaign was mounted with a well-established narrative of what occurred and a strong presumption as to what the outcome should be, evident perhaps most obviously in the Foreword and Introduction to the Springhill Massacre booklet.

12.06 Two phenomena which were evident in the course of the evidence received in this inquest underscored the need to treat some evidence with caution, even when honestly given. First, there were a number of examples of simple discrepancies in accounts where it seemed clear to me that one or other honest witness must simply be mistaken in their initial account. An example might be the question of whether Marie Meenan was present at the time when Margaret Gargan was shot. On balance I consider that she was. However, the evidence of her sister Elizabeth Meenan and Elizabeth's friend Rosemary Heath – which I assessed to be honest – pointed clearly in the opposite direction. Another example may be the conflicting evidence about whether Fr Fitzpatrick came to Patrick Butler's house and they left together or whether Patrick Butler left his house to fetch the priest (although I ultimately did not consider any conflict in this regard to be of any moment).

12.07 The other phenomenon is the development of a myth which, through repetition or recounting, becomes part of the received wisdom. An example is the suggestion that David McCafferty was shot several times in the chest. This appeared in the account attributed to Robert Russell in the Springhill Massacre booklet (noting that David McCafferty was shot and then "hit at least another seven or eight times in the chest"). Mr Russell repeated it in evidence as what he remembered in his mind. It was further repeated in the account of David McCafferty's own mother, Nora, in the Springhill Massacre booklet (who said that "David was shot over seven times, most of them in the back"). In Gerard Kelly's book he suggested that David McCafferty was "hit eleven times while he was lying on the ground" and therefore cut to pieces. However, this notion of David McCafferty having been repeatedly shot is demonstrably wrong on the basis of the pathology evidence. A further example is the suggestion that the Parachute Regiment was responsible or involved. John O'Donoghue indicated that he believed this at the time, as did Brian Petticrew; and it was repeated by Gerard Kelly in the chapter of his published book dealing

with the incident. I have found no evidence to support this in the course of the inquest.

12.08 I am aware, therefore, that both community and military *narratives* have grown up which may represent little more than a belief which is genuinely held but constructed on a wholly unsound basis. From time to time, I was struck by how some witnesses were prepared to offer views, or state as facts, something about which they could not themselves know (for instance, Kate Donnelly's evidence in relation to there having been no shooting before Martin Dudley was shot, on the basis of what she heard "in the shop"). On the civilian side, I have been conscious that a number of witnesses who were very young at the time of the incident may have had an increased susceptibility to suggestibility by reason of their lack of maturity in the years following the incident.

12.09 As a result, I have not felt bound to accept the oral testimony of a witness simply on the basis that they are clear in their own mind of what they saw (where that was the case) and that I considered them to be doing their best to give an honest recollection. Where possible, I have tried to assess the reliability of oral evidence against evidence provided much closer in time to the relevant events and, where possible, written and/or obviously objective evidence from that time, as well as the evidence of other witnesses.

12.10 As a further example of the difficulties, there were wildly differing estimates given of the timing of certain events. As I have commented previously in the course of this ruling, I think it unwise to place significant reliance on estimations of the time of events when these were often little more than guesses, or guesstimates, formed on an impressionistic basis. I also discerned a trend in some of the civilian evidence to seek to place events, or some aspects of them on 9 July 1972, *earlier* than they had done previously (for instance, in the evidence of Brian Petticrew, as to when John Dougal and John Petticrew had left their home).

Uncertainty as a permissible or appropriate outcome

12.11 It is a well-established feature of coronial practice – particularly in lethal force cases and even more particularly in legacy cases looking at deaths very many years ago – that there may be cases where it is simply impossible or inappropriate to reach a finding on a particular matter, including the most central issue or issues of contention in the case.

12.12 This phenomenon was recognised and described by Keegan J in the Ballymurphy Inquest, at para [69] of the introductory portion of her findings:

“In practical terms, there will be cases where, no matter how thoroughly all relevant primary evidence is secured and available and then comprehensively examined, including by the examination of witnesses (publicly and

with the involvement of the next of kin), it is difficult to reach a clear conclusion as to what has occurred or for instance whether the use of lethal force was justified. This might arise by virtue of a lack of evidence or by reason of a conflict of evidence which is simply impossible to resolve decisively one way or the other. The European Court of Human Rights has recognised that “there may be cases where the facts surrounding a deprivation of life are clear and undisputed and the subsequent inquisitorial examination may legitimately be reduced to a minimum formality”; but that, “equally, there may be other cases, where a victim dies in circumstances which are unclear” (see *Taylor, Crampton, Gibson and King v United Kingdom* [1994] 79-A DR 127 at 136). The jury verdict questionnaire in the inquest in relation to the death of Jean Charles de Menezes, in England and Wales, included provision for a jury response to each question that they “cannot decide” (2/417-419). The obligation on the State is not to provide a particular result in a given case but to provide a system of investigation which is capable in principle of giving rise to clear findings where they are warranted by the evidence.”

12.13 An example of such a case in a legacy inquest in this jurisdiction is to be found in the *Jordan Inquest* [2016] NICoroner 1 (where Horner J, sitting as a coroner, was unable to reach a final view on a number of important elements of the deceased’s behaviour which may have caused the police officer who shot him to perceive himself or others as being at risk: see para [330]). Keegan J went on to observe that, on a judicial review of the coroner’s findings in that case which proceeded to the Court of Appeal, that court recognised that “whilst a coroner must strive to reach findings, it may not be possible, and if that is explained, the inquest verdict is lawful in a particular case”. The relevant decision is *Re Jordan’s Application* [2018] NICA 34.

12.14 The Court of Appeal in *Jordan* referred to the decision of the English Court of Appeal in *Coroner for the Birmingham Inquest v Julie Hambleton and others* [2018] EWCA Civ 2018 which emphasised the differences between coronial inquiries conducted through inquests on the one hand and adversarial civil or criminal litigation on the other (and see also the comments of Lord Lane CJ to similar effect in *R v South London Coroner, ex parte Thompson* (1982) 126 SJ 625). This has implications for the use of the burden of proof in inquests. In a case such as the present, where lethal force has been deployed by the state, it is for the state to provide a satisfactory and convincing explanation to the inquest for the use of force. Where it has not done so, it is appropriate for a coroner to state as much. The Court of Appeal described this as a “consequence” of the state’s failure to discharge that overall burden. However, that is not a burden of proof which operates to the effect that the next of kin’s or civilians’ version of events is to be accepted unless and until disproven by

the state or in the absence of the state providing sufficient evidence to displace it. In the Court of Appeal's phraseology, such a failure "does not establish on the balance of probabilities a whole series of facts..." (see para [111] of the judgment).

12.15 The Court of Appeal held as follows in *Jordan*, at para [112] of the judgment of Stephens LJ (on behalf of the court):

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

12.16 At para [114] of its judgment, the Court of Appeal addressed the relevance of delay to the issue of a coroner being unable to reach a conclusion or finding in respect of a particular issue. It did so in the following terms (with italicised emphasis in the original):

"The Coroner stated that he was agnostic in relation to a number of issues in the inquest. One of the reasons relied upon by him was the delay of some 25 years between the events and the hearing of the inquest. It was submitted that the Coroner's reliance on delay as a reason for not coming to a concluded view was inappropriate given that he heard from a significant number of witnesses and none of them *professed* to be unable to remember salient facts. We reject that criticism as what the witnesses *profess* was relevant but not determinative, it being for the Coroner to *assess* the impact of delay on their evidence. It was also

suggested that “if delay, without more, could justify a failure to arrive at a verdict, the reality is that in no legacy inquest would Coroners be able to arrive at verdicts.” We also reject that criticism as the question as to whether delay does or does not contribute to agnosticism in relation to an issue will depend on the particular facts of each case. Furthermore, the reasons for the Coroner being unable to decide the issues included delay but was not confined to the issue of delay.”

12.17 In the present case, the order of delay in the taking of evidence in relation to the deaths was over 50 years from their having occurred, twice that which was present in the Jordan Inquest. That, of course, is not to be laid at the door of the next of kin; nor for that matter the individual soldiers who gave evidence. However, it is another factor which makes it difficult to resolve decisively (using Keegan J’s words) certain issues which have arisen; or makes it more likely that a coroner will remain undecided or profoundly unsure (using Stephens LJ’s words) on a certain issue.

12.18 In the *Jordan* case there had been evidence presented by the police which “seemed credible” but which, for reasons set out by the coroner, he was not prepared to accept in its totality. He was also presented with evidence on behalf of various civilians which he rejected. In other words, there was conflicting evidence pointing in different directions which the coroner was not able to resolve to the degree required to make a finding.

12.19 The Court of Appeal was satisfied that the coroner in the Jordan Inquest had striven hard to make a finding about various issues and, where it was not possible for him to do so, had explained the basis for this. In light of that, the court considered that there was no arguable case that he had abdicated his duty in the conduct of the inquest.

12.20 It is with that in mind that I turn, in the sections of this chapter below, to seek to set out a basic understanding of what may have happened during the key period on the evening of 9 July 1972; recognising that there are a range of aspects which simply cannot be resolved with the requisite degree of confidence to be definitive, even on the balance of probabilities.

Trying to understand the overall narrative

The context and army mindset

12.21 I have described the immediate context of the events in Chapter 3. Taking a more panoramic view, it is appropriate to record that 1972 was the most violent year of the Troubles in Northern Ireland. The army had been called in to help maintain order and was caught in the middle of violence from and between

communities. There was significant terrorist violence from several sides but, in particular, the army was the subject of vicious, murderous attacks from the IRA. In the Jordan Inquest, Horner J spent some time reminding the readers of his findings of the very different atmosphere in Northern Ireland at the relevant time (1992) than now prevalent. The same can be said, with greater force, in the present case; where the violence, lawlessness and raw sectarian hatred of 1972 is, mercifully, very largely a thing of the past. The MoD submissions, drawing on the CAIN database, provides the following summary:

“During 1972, connected to the security situation, there were at least 470 deaths, 4,876 persons injured, 10,631 shootings, 1,382 explosions (with a further 471 devices neutralised), 1,259 arms finds, 18,819 kilograms of explosives recovered, 1,931 armed robberies and 531 people charged with terrorist offences (covering the period 31 July 1972 to the end of the year). The number of soldiers serving in Northern Ireland during that year ranged from 22,800 to 30,300. During 1972, 131 soldiers (48 in 1971) and 17 police officers (11 in 1971) were killed.”

12.22 A number of 1 Kings soldiers had already been killed on the tour, a factor emphasised in the MoD submissions. For instance, on 13 May 1972, B Company Section Commander Cpl Alan Buckley was killed while on patrol in the Turf Lodge area; on 23 May C Company Kgn Eustace Hanley was killed in Ballymurphy; on 30 May 1972 Kgn Jimmy Doglay was one of five Kingsmen injured in an explosion at the Springfield Road base and died; and on 6 June 1962, 1 DWR Private George Lee was killed in Ballymurphy when hit in the neck by a high velocity bullet. Many more were injured, some with life-altering injuries. Of note is the fact that SM181 was shot in the leg on Westrock Drive by a sniper on 2 May; SM333 was shot and injured at Corry’s on 3 May; Kgn Keating was shot in Springhill Avenue on 5 May; and another soldier was shot in the arm at Corry’s on 14 May.

12.23 In much of the military evidence, I was struck by the youth and inexperience of many of those sent to serve here, to say nothing of their ignorance (in a non-pejorative sense) of the complexities of the political situation or the reasons why many were violently antagonistic towards them. That factor may have been particularly acute in this inquest where the relevant regiment was based in Lancashire, near areas such as Liverpool with a significant Irish population, and where the regiment had previously undertaken a successful tour in Northern Ireland during which community relations and links appear to have been positive. However, the sense of terror and vulnerability experienced by many of the soldiers when deployed here was palpable throughout some of the military evidence.

12.24 I am satisfied that, by the time of the events of 9 July 1972, those attending Corry’s Wood Yard appear to have been expecting an armed attack and were no doubt nervous and fearful in relation to such a possibility. I believe they would

have been aware that two company members - L/Cpl SM9 and Sgt Durkin - had been shot and injured at or shortly before 20.00. That is plainly not an excuse, nor suggested as a motivation, for what followed. However, the mindset of those soldiers deployed in Corry's Yard at the relevant time is likely to have been hypervigilant and highly defensive.

The alleged attack on the wood yard

12.25 I am satisfied that there was IRA activity ongoing in the Springhill area on the evening of 9 July 1972 and, more particularly, that there was a sustained attack on the army position at the wood yard from in or around 10.30 pm on that evening. It does not seem to be seriously in dispute that the IRA came into the area to attack the wood yard at some point relatively shortly after the deaths which are the subject of this inquest, with the unidentified IRA volunteer in Mr O'Rawe's book suggesting this took something in the order of 15 minutes. I am satisfied, in general terms, that the sustained IRA attack occurred *after* the key events which are the subject of this inquest.

12.26 This arises principally from the evidence contained in the army radio logs discussed in detail in Chapter 4. I consider it unlikely - and nor was it seriously suggested - that the contemporaneous reports which formed the basis of those logs were entirely false or that the logs themselves were doctored to a significant degree to provide an *ex post facto* narrative. I consider the content of the Battalion and Brigade Logs to be likely to be an accurate reflection of what was reported at the time. With the exception of a number of entries at or around 22.24, which clearly do not match up with other evidence of what was happening on the ground, I also consider that the radio logs are likely to represent strong contemporaneous evidence of what was reported, in real time, as happening on the ground. Both the content of the Battalion Log and the Brigade Log support the suggestion that there was a major gun battle in and around the period of 10.23 to 10.35 pm that evening. Police information later indicated that there was a report of a gun battle in progress in the Ballymurphy area around 11.05 pm.

12.27 The logs and some other evidence discussed in Chapters 6 and 9 also support the contention that there was more sporadic shooting from civilian positions at or in the vicinity of the wood yard in advance of that major gun battle. In particular, three high velocity shots from the direction of Corpus Christi Church were recorded as having been fired around 9.00 pm. There was then a hiatus; but automatic fire was recorded from the same area around 10.00 pm; with two further high velocity shots from the same area around 10.12 pm; and a further report of automatic fire in that area (which was likely to be civilian fire) around 10.23 pm, just as the more sustained gun battle commenced.

12.28 It seems to me likely that SM117 was concerned about the shots recorded in the logs around 9.00 pm (or possibly earlier automatic fire recorded by police around 8.45 pm), which prompted SM10, fearing further escalation in light of the cessation

of the ceasefire and trouble in Lenadoon, to call in the QRF, in anticipation of an attack. On the basis of SM100's evidence, in which he times the instance of his own firing at the alleged gunman at the hole in Corry's Wall around 10.00 pm, it seems likely that the QRF was called and arrived sometime between 9.00 pm and 10.00 pm; particularly since I consider that it was still light at the time when most if not all of the shootings with which this inquest is concerned occurred. Once the QRF arrived and were positioned within the woodshed, incident 1 occurred between 9.30 pm and 10.00 pm, mostly likely around 9.50 pm.

12.29 The MoD has promoted the case that there was a sustained and organised attack on the army at the wood yard, to which the ciphered soldiers responded. In this respect, the MoD relies upon the content of the ciphered statements (discussed in further detail below). Other than that, the case is very largely circumstantial. There is some direct evidence, discussed in Chapter 6, of civilians firing at Corry's Wood Yard at or about, or before, the time when the deaths in this case occurred. In particular, Gerard McClory gave evidence of a masked man with a rifle firing two shots towards Corry's Yard beside the telegraph pole on Springhill Avenue between 7.00-7.30 pm, or thereabouts; Gerard Mateer gave evidence of a civilian firing 4-5 shots at Corry's Yard with a handgun from near 87 Westrock Drive at a time which appears to be around, or shortly before, the shootings considered in incident 2; and Mary Doyle gave evidence of first hearing a burst of *automatic* fire sometime between around 8.30 to 9.10 pm when making her way home. However, the evidence in this regard is limited and disjointed. The high point of external support for the MoD case is perhaps the account of Eyewitness One in the Springhill Massacre booklet, which the submissions of the next of kin largely ignored. This supports the suggestion that there were a number of armed individuals in the area of Westrock Drive (and at or near the circle area or 49 Westrock Drive) at some point shortly after the initial shooting. Nonetheless, the primary evidence of a sustained and coordinated attack on the yard prompting the soldiers' response is contained in the ciphered statements. Intelligence material, though relied upon heavily by the MoD, provided little to no support for the central thrust of the MoD case, namely that a coordinated and major IRA assault was the cause of the shootings.

12.30 As indicated above, aside from the ciphered statements there are two key strands to the MoD's case. First, the IRA ceasefire had broken down and, as a result, IRA volunteers had been called back into offensive action (providing the motive for such an attack and explaining its timing). There had been a formal announcement from the IRA at 9.00 pm that night that all units had been instructed (at some earlier point) to resume offensive action. Second, a number of persons who were (or may have been) involved in unlawful associations at that time were in the vicinity of Springhill, or certain parts of it, at or about the time and location when the deceased and injured were shot.

12.31 I consider it highly likely that those involved in unlawful associations in the Springhill and Westrock areas would have known very quickly about the ending of the ceasefire and the IRA instruction to return to offensive action. A range of

witnesses gave evidence about learning of this in a variety of ways. In addition, Robert Russell's account in the Springhill Massacre booklet described the ex-servicemen's club as a communications centre "to monitor the Truce and to connect Ballymurphy and Whiterock". He and PJ Walls were monitoring the centre and I believe it likely that word would have spread quickly of any relevant announcements on the part of the IRA.

12.32 On the other hand, there is also force in the counter-proposition that those who would have been inclined to follow the IRA's directions would, in accordance with the earlier instruction, have made their way to Lenadoon to assist with any operations ongoing there, in response to the specific urging that they should do so. Broadly speaking, I consider this analysis to be supported by the apparent absence of many more senior and experienced members, or alleged members, of the IRA in Springhill or Westrock at the relevant time.

12.33 As to the second point generally advanced by the MoD and identified at para 12.30 above, there is only so much that can be read into this. With the exception of a few (including, for example, John O'Donoghue) most of those involved in the events of 9 July 1972 lived locally. There is nothing inherently suspicious about their having been in the vicinity of Corry's Wood Yard at the relevant time. It is also noteworthy that many of the protagonists would have been known to each other through school, friendships, community activities or family relationships. Some elements of the MoD case appeared to me to promote a theory of guilt by association. A number of civilian witnesses made the case that of course they knew others from the area (particularly those at or near their own age) because it was a small community where everyone knew each other. That does not wholly negate the significance of several of the relevant persons being involved in unlawful organisations. However, it dilutes any suggestion that their knowing each other, or being together at a particular point, is in itself suspicious. Where others have come into the area - either without adequate explanation and/or in the company of someone with whom they may be unlikely to have innocently socialised - that is a different matter.

12.34 The theory that the shootings arose out of a mass, coordinated attack on the wood yard with 15-20 gunmen involved hinges crucially, however, on the weight to be given to the ciphered statements, to which I now turn.

12.35 In summary though, I reject the civilian case that not one round had been fired at Corry's Yard on 9 July 1972 in advance of the deaths with which this inquest is concerned. That is much too simplistic an analysis. The evidence suggests that some sporadic shooting at Corry's Yard had occurred earlier in the evening and/or at some times proximate to the deaths; and that at least some individual gunmen were active in the area. At the same time, I also reject the army case that the soldiers' response was prompted by a major, coordinated attack and that the deceased in this inquest were killed in the course of the army repelling such an attack. The evidence - including, crucially, the army's own radio logs - does not support this. The

absolute radio silence in respect of this location in the Brigade and Battalion Logs between 21.00 and 22.03 (and, in reality, until the next key entry at 22.24 on the Brigade Log) hugely undermines the narrative presented in the ciphered statements and the suggestion of a mass attack within that time period. In my overall assessment of the evidence, I conclude that soldiers, in particular Soldiers E and A, overreacted to a perceived threat and subsequently lost control. This may have been prompted by fear of imminent attack, and even influenced by sporadic civilian firing; but it was not a response to a coordinated attack by a mass of gunmen.

The weight to be given to the ciphered statements

12.36 For reasons discussed in more detail throughout this ruling (in particular in Chapter 7) and summarised further below, I believe I can place limited weight on the content of the ciphered statements. This does not mean that they should be given no weight; and, indeed, in a number of submissions from the next of kin in this case I was invited to rely upon the content of the ciphered statements for certain purposes (including, in several cases, identifying the soldier who shot their particular loved one). As I have previously stated, however, I am not prepared to accept their content as true on the basis of the ciphered soldiers' mere say-so.

12.37 This follows from a number of matters. First, self-evidently, the statements are a form of hearsay evidence since they do not represent sworn testimony given in the course of these proceedings. That of itself does not mean that they are unreliable; but it does mean that they have been untested by way of examination, which goes to weight. Second, and importantly, no military witness has volunteered that they either *are* one of the ciphered soldiers or even that they know (or are able to assist with) the identity of one or more of those soldiers. It is plainly relevant in my view that no military witness wishes to stand over the content of the statements as representing their evidence or the evidence of someone they can identify. Third, and worryingly, any means of identifying the makers of the ciphered statements has unaccountably gone missing. Fourth, as summarised further below and addressed in Chapter 4, several of the contents of the statements do not sit easily with each other; with the contemporaneous army radio logs; or with the facts (including non-contentious or less contentious facts) as they are now known. I do not consider that these conflicts can be wholly or adequately explained by different soldiers merely having different recollections or interpretations of the same events.

12.38 Nonetheless, I have already made the point that I consider that the ciphered soldiers who were interviewed by the RMP - and particularly Soldiers A and E - would have made some attempt to seek to explain deaths for which they knew or thought they were responsible. At the time of making the statements, they could not have known that in due course the cipher list identifying them would be lost. Whatever confidence they may have had (if any) that the system of investigation would not result in a high degree of scrutiny or accountability, they would have been aware that civilian deaths would be a matter of public record and that some explanation of the cause of the deaths was required from them.

12.39 A number of difficulties with the system for the taking of these statements have been discussed in Chapter 7. The MoD's submission was that the accounts provided in the ciphered statements were likely to be *more* reliable than if they had been taken under caution in the context of a criminal investigation. I do not believe this follows. It might well be that more information was provided by soldiers under the prevailing system and that, if cautioned, they may have simply exercised their privilege against self-incrimination and said little or nothing. However, the mere fact that soldiers felt free, or perhaps even compelled, to give an account is no guarantee of its truthfulness or reliability. The risks of conferral and the giving of self-serving accounts were obviously present.

12.40 The MoD itself accepted in its written submissions that the accounts were "not necessarily each accurate in every detail", partly (it submitted) because of the difficulties describing completely and accurately what occurred during a dangerous or traumatic event, even relatively soon afterwards. I accept that point. As I have also commented during the preceding discussion of evidence in relation to the deaths, I entirely accept that soldiers may have been confused or mistaken about timings, detailed descriptions of individuals, or precise locations or addresses. Nonetheless, there are two major concerns with the accuracy of the ciphered statements (taken as a whole) which cast a very significant shadow over them.

12.41 First, even allowing some leeway for mistakes as to precise timings, the timescales given in the ciphered statements are wholly at odds with those recorded in the army radio logs. Second, even allowing some leeway for misinterpretation as to whether a civilian gunman was or was not hit, the ciphered statements significantly over-declare the number of hits claimed by soldiers in Corry's Yard on 9 July 1972, as compared with the number of hits claimed in the radio logs and the number of persons known to be killed or injured that night.

12.42 The times given in the ciphered statements do not appear to me to match up to the radio logs, as discussed in further detail in Chapter 4 (see para 4.166, for example). It would, of course, be possible for soldiers to give erroneous timings, especially if they did not have access to a clock or watch at the time and RMP statements were taken without the benefit of logs being available. (For example, SM93 appended to his inquest statement his RMP statement in relation to the shooting of SM9. He thought the handwritten statement referred to 14.00 but, in response to questioning, accepted it was likely to refer to 19.00. However, the radio logs suggest the incident occurred at 19.50, suggesting that the time given in the statement of 19.00 was something of an approximation.)

12.43 But the timing of the arrival of the cars by Soldier E in his statement at 20.30 and by Soldier A (in respect of the one of these cars which he saw) at 20.20 is wholly out of kilter with the log entries recording the arrival of the cars at 22.29 in the Battalion Log and of one car at 22.32 in the Brigade Log. I have considered the possibility of this being a reference to yet *further* cars arriving (with enemy reinforcements, as the Tour Diary suggests) in addition to the cars which were

present at the start of incident 1. I consider this very unlikely. No one, including the ciphered soldiers, suggests that yet further cars arrived. Moreover, the radio log entries close in time to those recording the arrival of a car or cars seem to be clearly linked to the first three 'hits' claimed, with an associated reference to Martin Dudley and/or John Dougal lying for some time. The reporting of three hits at 22.24 and 22.28 in the Battalion and Brigade Logs respectively also stands in sharp contrast to the ciphered statements which indicate that very many more hits had been claimed by that time by the ciphered soldiers respectively.

12.44 I formed the view that some of the timings given in Soldier A's statement, namely those from around 21.30 onwards when he contended that the main elevated OP "*again* came under fire from numerous positions" (my emphasis), in fact more accurately reflected the time when the initial confrontation occurred. The earlier alleged exchange about 20.20 and shooting of an alleged gunman running into the flats simply did not fit with any other evidence I received about a death at that time and that location. It is, again, completely absent from any army reporting over the radio.

12.45 As Mr Vannan's evidence highlighted, there are some similarities between some of the locations where soldiers said that they shot gunmen and the locations where civilian witnesses said that people were shot. However, there are also locations where soldiers described shooting at gunmen, or having seen fallen individuals, which do not appear to correlate with descriptions from witnesses' accounts. An example of this is the fallen gunman indicated close to the junction of Westrock Drive and Westrock Parade (said to have been seen by Soldier F). No explanation has arisen in the course of the inquest evidence which could account for who that may have been or how Soldier F concluded that a body lay there.

12.46 I have considered the possibility that additional gunmen or civilian casualties may have been quietly taken away and were unheard of and from again. In email correspondence with the HET in 2012, SM222 indicated that it was rare for the army to get confirmation of any casualty on the day. The army reporting would usually only state whether a hit was claimed; and evidence after that was "very sketchy". He said that "the presence of the Catholic Ambulances" from North Belfast "was usually a clue"; but that neither PIRA nor OIRA declared casualties and they were "usually spirited away". Only years later would the army discover an obituary declaring the victim to have been a volunteer. However, I consider this unlikely in the circumstances of this case; and certainly unlikely to the degree that would explain all of the presently unaccounted for hits claimed in the ciphered statements. The evidence before me clearly indicated that the army usually had someone at the RVH reporting on arrivals (which is where casualties with any serious gunshot wounds in West Belfast would almost undoubtedly go).

The missing documents

12.47 My assessment of the strength of the case made by the MoD has also been influenced by the following consideration. It is a striking feature of this case that a number of important MoD documents which may well have assisted, either in identifying the ciphered soldiers or more generally in relation to what occurred, have gone missing without any or adequate explanation. A number of these issues have been discussed at some length in Chapters 4 and 7. However, it is particularly concerning that (i) the company-level radio logs have gone missing; (ii) there are no RMP 'witness debrief' forms in relation to this incident, assuming they were completed as they were with other incidents; (iii) there are no ammunition logs indicating the number of rounds discharged or by which soldier; (iv) no record whatever appears to be available which permits those soldiers who provided the ciphered statements to be identified, including both the original statements themselves (or any copies of the originals) and the cipher list; and (v) there is no copy of the RMP SIB's investigation report. Other important elements of the RMP investigation file also appear to have gone missing, such as the Diary of Events. The investigation report is likely to have included a range of information over and above the content of the ciphered statements indicating the results of the SIB's enquiries. This is highly likely, one would have thought, to have addressed some of the gaps in evidence we now face, such as the content of the company radio log which would have been readily available at the time.

12.48 It is difficult to believe that this state of affairs has come about through mere happenstance. It seems to me likely to be more than a coincidence that many or all of the key documents, likely to be the most illuminating about who did precisely what (and at what time) on the ground that night, are no longer available. The MoD's submissions expressed regret at the fact that it was no longer in possession of the cipher list. However, no explanation for the above state of affairs has been provided, let alone a satisfactory one. Notwithstanding the significant period of time before the fresh inquest was ordered by the AGNI, the army prides itself on record-keeping. It was the selective nature of the documents available at this remove which caused me significant concern.

Lack of IRA assistance

12.49 Before moving on to summarise what I consider to be the overall broad narrative of the incidents, it is also appropriate to comment on the position of the IRA (in both its PIRA and OIRA dimensions but, primarily, in respect of the PIRA). Within days of the incident, the IRA published through the media its own timetable of the events of the evening with detailed timings relating to the shootings and an associated commentary as to how events unfolded. In the event, I consider the timings broadly accurate. A number of the details provided are not accurate. (For instance, this account also suggests that David McCafferty was "hit several times in the back and side.) I treat the content of the timetable with caution, since it likely represented an element of propaganda and is unlikely to have been candid about

any IRA actions which may have contributed to the deaths. I note that, in respect of John Dougal, the timetable suggests that he ran directly from the Petticrews' bungalow towards Martin Dudley, an account which neither accords with that of Brian Petticrew, nor John Petticrew. Nonetheless, several of the details accord with facts as I have found them.

12.50 The point is that the IRA very quickly formed a clear picture of what it considered had occurred. That is no doubt because, as I have found, personnel (of either the IRA or Fianna or both) were present in some guise at various points. I consider there is force in the submission made by the MoD that the IRA, or its members, have not engaged with the inquest in such a way as to bring clarity to its role and actions on the night in question (as the coroner noted to be the case in the Kingsmill Inquests [2024] NICoroner 21, at para [318]). This is in circumstances where it has been clear for some time that the army case was that the deceased were killed in the course of an IRA assault on Corry's Yard, yet the IRA denied this.

12.51 In some ways, the absence of transparency and record keeping on the part of the army, of which I have been critical above, was reflected on the civilian side. This is most notable in the facts (i) that a number of the anonymised witnesses in the Springhill Massacre booklet remain unidentified or have failed to give an open account, including naming those who remain anonymised in the account of Eyewitness One; and (ii) that the content of the 1992 edition of the Springhill Massacre booklet was 'sanitised' in later versions. I have already commented in the course of Chapter 5 that the accusation in its foreword of 'selective amnesia' on the part of others rings hollow in view of that fact.

12.52 There was also a material gap in the evidence resulting from individuals relying on their privilege against self-incrimination, as was their right. Perhaps unusually in this inquest, this was as much a feature of the civilian evidence as it was on the military side. Some military witnesses of course relied upon their privilege, as a result of which I was deprived of the benefit of evidence I would otherwise have had, and which I would have preferred to have had. Others, I suspect, could have told me more but professed confusion or lack of memory and so had no need to rely upon their privilege.

12.53 But a broad range of civilian witnesses also relied upon their privilege in relation to their knowledge both of unlawful civilian activity at or around the time of the shootings or of those who may have been involved in such activity more generally. A non-exhaustive list of civilian witnesses' reliance on their privilege is set out in Chapter 6 (see para 6.158). As previously explained, witnesses wishing to rely on their privilege are to be given a wide latitude to do so in this context. I also took the view, which I still consider to be correct, that (in light of rule 9 of the Coroners' Rules) a witness should not be compelled to confirm under oath, in public and recorded in a court of law, a matter which was self-incriminatory which they had previously disclosed at some point, perhaps in a much less formal or less public way, or perhaps some distance ago in the past. However, the result of the

protection afforded by the privilege against self-incrimination in this regard was that the inquest was denied a range of evidence which was relevant, or at least potentially relevant. In several cases, the answers to the questions posed, if given, may not in fact have been particularly probative. (For instance, where a witness was asked in a broad way who, if anyone, they knew to be involved in unlawful associations at the time, this may not have taken matters further in the event that there was no suggestion that such a person was present or involved in the incidents under investigation.) In other cases, they may have been significant, just as was the case on the military side.

12.54 Broadly speaking, I would not be critical of those who chose to exercise their privilege in this connection. Witnesses, as the case-law indicates, are entitled to take their own course and make their own assessment of risk when determining whether or not to answer an incriminating question. However, I was left with the obvious impression that there may have been other reasons why civilian witnesses would not wish to disclose what they knew, or may have known, about unlawful activity within their community. Some witnesses said as much, or indicated it by their demeanour or by being prepared (reluctantly) only to provide information when invited by counsel to write it in a note simply to be passed up to me. I do not doubt that – even in this context where the inquest is seeking to establish the facts relating to the relevant deaths and this is supported by the families of the deceased – the opprobrium and stigma (wrongly) attached to being labelled a ‘tout’ may be a powerful motivating factor. More than that, the underpinning of much of the PII redactions in this case, and others, is that a very real risk still exists to those who are considered to have provided information to the authorities about the activities of certain organisations. I am sure that those fears are real.

12.55 At the same time, using the evidence of Richard O’Rawe as an example, he chose to rely on his privilege against self-incrimination in circumstances where he was plainly in a position to provide relevant information about IRA personnel, structures and activity in the relevant area at or about the relevant period in circumstances where he had already made public statements about these in books published under his own name. In addition, he appeared to me to wish to retreat from or undermine relevant statements he had previously made. The inquest process would have been better informed if members or former members of the IRA had been more candid in relation to the activities of relevant members on that night, including if it was the case (as they might well have suggested) that those activities had no impact.

12.56 One means of addressing this issue, as explained in Ruling No 1, was to seek relevant intelligence material held by the police which might provide additional information suggestive of paramilitary involvement or activity at the relevant time. The content of this material was potentially enlightening in certain respects and gave rise to a number of avenues of enquiry. However, the reliance which could be placed on it was limited by its nature. I consider there to be force in the objection made by some of the next of kin that the state parties in this inquest, particularly the

MoD, tended to treat the content of intelligence information as if it were incontrovertible fact or direct evidence. At the same time, where there was intelligence reporting which was consistent or detailed, which suggested clear familiarity with the matters reported on and/or which had been assessed by the authorities themselves as reliable, this was of some potential value, particularly where corroborated or supported by other evidence (or inferences properly drawn from evidence). The ultimate position, however, was that, whilst some intelligence material was of assistance in assessing the involvement of relevant individuals with unlawful organisations (or their role in those organisations), it provided very little direct assistance on the events of 9 July 1972.

How the incidents fit together

12.57 There were a range of witnesses whose evidence spanned or addressed more than one incident in the inquest; and individuals who featured in a number of such incidents. From their evidence, or evidence about them, as well as by comparing the relative timings of the various incidents as assessed from a variety of evidence, it was possible to piece together some picture of how (if at all) the incidents related to each other, both as to timing and in substance.

12.58 Some considerations which assisted in this regard were as follows:

- (a) Thomas Reid gave evidence of seeing John Dougal and Brian Petticrew being shot. He quickly left Corrigan Park with his friends and went to Brian Muckian's house. He estimated that he was there for 15-20 minutes and then began to make his way home, during which time he saw three bodies outside the Fosters' house from the alleyway between the Springhill flats. This evidence suggests that there was a period of perhaps only 20-25 minutes between incident 1 (or, at least, the shooting of John Dougal) and a point when the three individuals in incident 2 had been shot. Assuming that the bodies of at least Fr Fitzpatrick and David McCafferty were moved fairly quickly after they were shot, this evidence suggests that there was relatively short period of time between the two incidents, bearing in mind of course that Mr Reid's estimates may not be wholly accurate.
- (b) Gerard Heath also gave evidence of Denis Devenney arriving on the scene of incident 1 at some point after Martin Dudley had been shot (and after he had seen Brian Petticrew and John Dougal); but at a time when he (Mr Heath) remained pinned down at the circle area (although this episode appears contrary to Mr Devenney's recollection of his movements).
- (c) Martin McShane gave evidence of seeing Martin Dudley still lying in the road (and an ambulance unable to get to him) around the same time as being told that Fr Fitzpatrick and Patrick Butler had been shot.

- (d) John O'Donoghue give similar evidence, namely that he saw Martin Dudley being taken away in an ambulance at a time very shortly after the shootings in incident 2. He also suggested that, at or around the time of those shootings, word had already spread of the shooting of Margaret Gargan in a different part of the estate.
- (e) The content of the ciphered statements is also relevant in this regard. Although the timings contained in those statements are far from wholly reliable, they do indicate a basic chronology of some of the key events, in circumstances where I consider some of their content to be referable to the shootings with which this inquest is concerned. In particular, I consider that the statements of Soldiers A and E, taken together, indicate that Soldier E initially opened fire in the direction of the car which had stopped near the circle area, during which firing Martin Dudley was injured; that the shooting of Brian Petticrew and John Dougal followed after that; that Soldiers A and E then swapped positions in the wood shed; and that the shooting of Patrick Butler and David McCafferty followed sometime after that, as did the shooting of Margaret Gargan (both of which are timed at or just before 22.00 in the statements).

12.59 My analysis of the evidence in Chapters 9-11 suggests that the initial shooting at the circle area occurred between 9.30 to 10.00 pm, with intense firing during which John Dougal was likely shot likely to be around 9.50 pm, given the police information about intense firing around that time (see paras 9.423 to 9.424); that the shooting of Fr Fitzpatrick, Patrick Butler and David McCafferty likely occurred around 10.00 pm (see para 10.234); and that the shooting of Margaret Gargan likely occurred between 9.45 and 10.10 pm, but again perhaps around 10.00 pm (see para 11.83). These timings are, of course, unlikely to be 100% accurate; but the essential point is that, in my view, events unfolded relatively quickly following the dramatic commencement after the car was fired upon at the circle.

Summary of overall narrative

12.60 As will likely be clear from the lengthy discussion of the evidence in Chapters 9 and 10, with the passage of time and the conflicting timings and accounts, I have found it difficult to piece together with confidence and precision what happened on Westrock Drive on the evening of 9 July 1972 when these events unfolded. Putting together the evidence discussed in Chapters 9-11 with other evidence and information discussed elsewhere in this ruling (and, in particular, in Chapters 3-6 and 8), I have formed the following views:

- (1) There was sporadic civilian gunfire in the wider Springfield Road area from at least 8.00 pm on 9 July 1972; and at least some sporadic shooting at, or in the area of, Corry's Yard that evening in advance of the shooting of John Dougal. That included the shooting described by Patrick McClory and also that recorded from the Corpus Christi area around 21.00 in the army radio

logs. I also consider that there was automatic fire which was likely to be from a civilian weapon which was fired in the Corry's Yard area before, or around the time of, the shooting of John Dougal. Automatic fire seems to have been heard by Mary Doyle and Gerard Heath. Police recorded such fire in the area around 20.45. The Battalion Log entry of 22.03 also supports the occurrence of machine gun fire at the Corry's location at that time. There is likely to have been at least one such gunman in the area throughout that time.

- (2) Some of the sporadic shooting in the area caused the soldiers deployed on guard duty in Corry's Yard to call in assistance and reinforcements from a QRF team, as described by SM100. I think this likely to have occurred in response to machine gun fire recorded in the police information sheets at 20.45 and/or in response to shots heard from the Corpus Christi area at 21.00. The QRF team would have been in position in the wood shed shortly afterwards but, in any event, in advance of 9.30 pm. It is possible that they were called or came simply because, in view of the cessation of the IRA ceasefire, trouble was expected.
- (3) I do not accept the MoD case that there was a coordinated assault on Corry's Yard planned to commence, or triggered by, the arrival of two cars of gunmen for that purpose. The events were more haphazard than that. There were two cars which interacted with each other at or near the circle area close to Nos 47 and 60 Westrock Drive. The cars stopped for the occupants, who knew each other, to speak. The car travelling east was likely on IRA business of some sort, quite possibly travelling to Lenadoon to assist with operations there. The car travelling west might well have been returning from Lenadoon.
- (4) When the cars stopped, something triggered the QRF soldiers, and particularly Soldier E, to commence firing at the car which had been travelling east containing Martin Dudley. It is unclear what precisely gave rise to the decision to commence firing. This is likely to have been influenced by the soldiers being in a high state of apprehension in view of the breakdown in the IRA ceasefire and recall of IRA units into offensive action; the shooting of two 1 Kings soldiers less than two hours before in nearby locations; whatever information had been conveyed at the time the QRF were called; and the previous armed attacks there had been against the yard and soldiers deployed there. It is possible that the car, if it was a blue/grey Austin 1100, was recognized as a car about which soldiers had been briefed on the basis of intelligence (although this is speculation).
- (5) The soldiers responded by shooting at the car travelling east and individuals in and near it. Martin Dudley was shot in, or as he was exiting from, this car. Others who had been passengers were then pinned down beside it. This included Martin Mulligan and likely included Paddy McManus. The car which had been travelling west moved to cover in the area behind 49 or 71

Westrock Drive and its occupants got out. It is unclear who they were. They may have included Gerard Heath and Joe McElkerney but I am unable to so conclude on the balance of probabilities.

- (6) This incident occurred between 9.30 pm and 10.00 pm; and most likely is the incident, or part of the incident, recorded by police from logs as involving “a large number of shots” at 9.49 pm (and alleged on behalf of the IRA to have commenced at 9.50 pm).
- (7) The absence of any contemporaneous report from 1 Kings C Company to Battalion HQ about the incident involving any claimed ‘hits’ until 22.24, or any reference to a car or cars until 22.29, is suspicious. It cannot be accounted for simply by virtue of the fact that all of the relevant soldiers were involved in an intense shooting incident during this period. I am also satisfied that there would have been adequate radio contact available between Corry’s Yard and C Company HQ to permit more regular updates. The absence of the company network logs (and other relevant documentation discussed elsewhere in this ruling) compounds the suspicious nature of the late reporting. This may well have been because the soldiers involved, or at least some of them, considered that there had been an over-reaction in terms of the army response to whatever threat was perceived. Whether that was because of the shooting in incidents 2 and 3 only, or also incident 1, is unclear. In any event, the reports made at *those* times were designed *ex post facto* to explain what had happened. However, they do not adequately do so given that, by that time, more civilians had been shot (seven in total) than were accounted for in the claimed hits.
- (8) The fact that the civilian deaths and injuries were not accounted for as one would expect in the Battalion and Brigade Logs means not only that there is no wholly contemporaneous record of what was observed on the ground by soldiers and reported back (or at least no such record still available); but it also meant that soldiers had greater freedom to tailor an account for the subsequent RMP investigation which may have been exaggerated or untruthful.
- (9) Following the initial shooting at the car, John Dougal and Brian Petticrew were shot shortly afterwards. They approached the circle area where the car with Martin Dudley beside it was located; and did so within a few minutes after Martin Dudley was shot in order to assist him in some respect. It is not possible to conclude whether John Dougal (or Brian Petticrew) was armed, or had been armed, with a short weapon shortly before they were each shot. The discrepancies between various accounts as to their whereabouts or actions in the time period preceding their shooting, along with their admitted membership of the Fianna and close association at the time with John Petticrew, give rise to significant suspicion as to their actions at the time of their being shot, in all of the circumstances and context. Nonetheless, John

Dougal's shooting was both in breach of the yellow card in light of the fact that he was running away from soldiers in concealed positions; and the force used was more than reasonable in those circumstances.

- (10) The shooting of Fr Fitzpatrick, Patrick Butler, David McCafferty and Margaret Gargan followed within a period of 10 or 15 minutes after the initial shooting of Martin Dudley at the car in Westrock Drive. They likely occurred around the same time; and it is impossible to conclude with confidence whether the shooting of Margaret Gargan preceded some or all of the shootings in incident 2.
- (11) In my view, all of the shootings in incidents 2 and 3 are properly to be viewed as part of the one overall incident and a response on the part of the army in Corry's Yard - in reality, two soldiers (Soldiers A and E) who were acting in concert for most if not all of the incident - to the threat initially perceived by them at the time when the shooting commenced. None of those deceased was armed at the time when they were shot or posing any risk to others. The further shooting on the part of Soldier A, in particular, evinced a loss of control.

12.61 I have expressly made no findings in relation to the shooting of either Brian Petticrew or Martin Dudley. As the Court of Appeal observed in *Re Cummings' Application* [2023] NICA 44 involving a challenge by a survivor victim of a fatal shooting incident to the coroner's denial of PIP status, the inquest is not the vehicle for discharging any State obligation, under article 2 or otherwise, to inquire into the injuries sustained by such a person. It is not designed to fulfil this purpose. Its fundamental purpose is to inquire into the death of those who are deceased.

12.62 Messrs Dudley and Petticrew were granted PIP status in these proceedings on the basis that, since they were alleged by the MoD to form part of the IRA assault on Corry's Yard, they may have caused or contributed to the deaths in some way. Their actions and role are each discussed in Chapter 9. I believe Mr Dudley was shot whilst in, or just getting out of, the car which had been travelling east on Westrock Drive which stopped at the circle area shortly before firing from Corry's Yard (by Soldier E) commenced. I remain suspicious of the actions of those in that car and have concluded, on balance, that they were engaged in IRA business. What precisely caused Soldier E to open fire on the car remains unclear. However, I do not consider that Mr Dudley's actions contributed to the death of any of the deceased in any material way, save that association with whatever was perceived by Soldiers A and E to be occurring at the circle area is likely to have affected Soldier A's perception of John Dougal's and Brian Petticrew's actions when they approached the car at that location.

12.63 Mr Petticrew's position is broadly analogous to that of John Dougal. Similarly, I cannot determine whether he was armed or not at the time; and I do not purport to make any such finding against him. He was plainly involved in the

Fianna, if not the IRA, and the suspicious circumstances which give rise to concern in respect of John Dougal's actions at the time apply to a large degree to him also. He was not, of course, alleged to have been shot whilst "in action"; but was associated with John Dougal at the time when each was shot. Given that he was first shot in the front and in the arm, as it appears he was emerging around the corner of the Tutons' bungalow, it might be suggested that there is a greater chance that he was armed or perceived to be armed. Insofar as he was shot again, and in the back, similar concerns arise as to the necessity for this further shot as apply in the case of John Dougal. However, I make no findings in relation to this.

Compliance with the yellow card

12.64 The requirements of the yellow card were discussed in detail in Chapter 2. I have concluded that each of the deaths subject to investigation in this inquest was caused as a result of fire which was in breach of the instructions contained within the yellow card. The army radio logs indicate that the soldiers deployed were to continue operating in compliance with the yellow card at all material times. An entry in the Brigade Log of 23.47 on 9 July 1972 recording a communication from Brigade Command to clarify the situation notes that they were "still operating under the current rules and the Yellow Orders Card". It was noted that those conditions may be changed in light of the activities of that day but, as at that time (after each of the relevant deaths in this inquest), the current rules still applied and the army was not to go on the "offensive".

12.65 It is appropriate, therefore, to say something more generally about the approach to the yellow card which is evident in some of the ciphered statements. Soldier E's statement indicated that the orders given by Soldier B to his seven-man fighting patrol were "to kill any gunmen, positively identified". Soldier D - who I considered more likely to be on guard duty rather than QRF duty - described the purpose of his duty as being to locate and "engage any targets identified as gunmen". This is not as direct as Soldier E's description but, again, suggests that gunmen should be 'engaged' on sight, once identified as such. Other soldiers describe their task in different terms, namely to "return fire" at targets identified as gunmen. That order is more likely to be compliant with the requirements of the yellow card, although not necessarily so. There may be circumstances where a gunman has fired at a soldier (or others) but the soldier would not be permitted to return fire consistently with the yellow card. That would most obviously include situations where the threat posed by the gunman had ceased; but also, for instance, situations in which the threat could be obviated by other means involving less force than firing one's weapon.

12.66 I also have a concern about the potentially casual use of the words "return fire" in this context. I note, for example, that Soldier A described Soldier E as 'returning' four rounds at a gunman (who had run from behind 49 Westrock Drive) and hitting him in the chest (although this appears to have been through the back) as he ran into the Westrock flats. This was in circumstances, however, where no

description is given by Soldier A (or Soldier E) of this gunman having discharged any shots at or towards Corry's Yard.

12.67 One document disclosed by the MoD was a memo dated 3 August 1972 from SM86 (of Army Legal Services) to the OC 178 Pro Coy RMP in relation to a different shooting incident in Belfast on 10 July 1972 involving 1 Kings with the reference 08566/2. (This incident again related to C Company of 1 Kings coming under fire whilst in Corry's Wood Yard. On this occasion 13 rounds were said to have been returned with three hits claimed.) It noted that, although the soldiers concerned were, on the basis of events outlined in this statement, clearly justified in opening fire at the target scene, "the orders given to these men caused me some concern". The task was, in the words of Soldier A (unlikely to be the same Soldier A as in the present incident), "to observe the area and engage any gunmen seen". SM86 commented:

"If the statements are placed before a Coroner's Court, the counsel for the next of kin is undoubtedly going to raise the question of the Yellow Card - which does not baldly authorize "the shooting of gunmen". The point arises that in the order given "gunmen" is not defined - it could be interpreted as anyone carrying a weapon, whereas para. 13.b states that fire may be opened at a person carrying a weapon if you have reason to think that he is about to use it for an offensive purpose."

[underlined emphasis in original]

12.68 On this basis, SM86 indicated that this may be a case which the OC 178 might wish to draw to the attention of the Deputy Provost Marshall (DPM). In a handwritten note the Deputy Assistant Provost Marshall (DAPM) agreed with this recommendation and also added the case reference of another incident to be noted in this regard (08559/2).

12.69 The point was well made by SM86. The yellow card did not authorise shooting of gunmen on sight merely on the basis that they were identified as being in possession of a weapon. More was required. The rules were undoubtedly strict but were designed to ensure that no more than the minimum force necessary was used; and that the army observed much higher standards than did the paramilitaries who acted without regard for the law. If Soldier B did indeed give the orders attributed to him by Soldier E, this is a matter of concern. It suggests that the requirements of the yellow card were not understood or, perhaps more concerningly, were to be disregarded on this occasion. The fact that at least two other instances (involving the same company) of materially similar orders being given were noted by SM86 and the DAPM is a further cause for alarm. It is difficult to know whether these orders being recorded in statements given to the RMP should be a cause for reassurance or concern. The orders appear, at least, to have been

candidly recounted. The DPM has rightly drawn attention to the issue. However, it is unclear whether any action did, or was likely to, follow as a result of these orders having been given. SM123 was specifically questioned about whether, if a superior ordered a subordinate to fire outside the terms of the yellow card, he would do so. SM123's evidence was that the soldier would have to fire if the person giving the order was of a greater rank than him. His evidence was that a soldier was not entitled to fire on someone in accordance with the yellow card merely because he saw that person to be *in possession* of a weapon.

12.70 The content of the ciphered statements gives rise to further unease about the issue of compliance with the yellow card by the relevant soldiers. Soldiers A and E each openly describe the firing of rounds by way of covering fire. This was also not permitted by the yellow card. No doubt this was because, in the first instance, discharge of a weapon in this way gave rise to a risk of injury to civilians or other soldiers in circumstances where this was considered disproportionate. In addition, the system of ammunition control and accountability for rounds fired is likely to have been undermined if soldiers could discharge their weapon and explain simply that the rounds were discharged without effect save as covering fire. SM57 gave evidence in relation to the use of "covering fire" which he accepted was in breach of the yellow card. He recounted an episode where he had personally been "castigated" for this. Similar issues arise in relation to the disclosure within the ciphered statements of soldiers shooting out lights, also evident from the statements of Soldiers A and E. Again, this was not authorised by the guidance set out in the yellow card.

12.71 I received a range of evidence about training on the yellow card, amongst other issues. A considerable number of soldiers gave evidence that they had received training on the card. This is addressed in Chapter 4. The RMP witnesses also confirmed that they had received training in the yellow card and knew the regulations and under which circumstances soldiers could fire. The tenor of their evidence was that soldiers were also aware of this. Broadly, I was satisfied that the training on the yellow card was adequate and that soldiers understood its terms and effect. Whether it was complied with on any given occasion is another matter. For the reasons given above, I have concerns that the soldiers involved in discharging the fatal shots in this inquest had a less than assiduous approach to compliance with the yellow card in terms of covering fire and shooting out lights. That, of course, does not necessarily mean that they would have displayed a similar casual attitude when firing at individuals. The issue of compliance with the yellow card in relation to the fatal shots is addressed in Chapters 9, 10 and 11 respectively.

12.72 It is also appropriate to note, however, that quite a bit of the civilian evidence supported the contention that there was an element of indiscriminate firing in the area. Several children described their understanding of having been fired at. Thomas Reid (aged 11) and Francis Lewsley (aged 13) described being at the hill in Corrigan Park and being fired at from Corry's Yard. I do not consider that this necessarily represented targeted firing at children. Rather, as noted in Chapter 9, it

is possible that this fire was 'covering fire' provided by Soldiers A and E at the time they were swapping position. Nonetheless, assuming it was such fire, it would have been in breach of the yellow card and likely reckless to the possibility of civilian injury. Other children or young people described vividly their understanding that they were being fired on. This included Richard Clarke (aged 10) and Martin Petticrew (also aged 10), who described shooting very close to them, striking the ground and a fence, as they tried to make their way to safety or cover. To like effect, Teresa McManus (aged 17) and Teresa McCann (aged 16) described having to crawl through the back garden of the Petticrews' bungalow avoiding shots striking the ground. They also described bullets striking the ground and fence posts around them. Evidence of this nature has given rise to my view that, after the initial incident, a lack of control was exhibited by at least some soldiers who were firing in this area, most likely Soldier A and possibly Soldier E.

Planning and control

12.73 Since this is not a case where article 2 ECHR is engaged, I do not consider that a detailed examination of the planning and control of the army operation is necessary or would be appropriate. In any event, even if article 2 applied, this is not a case where a pre-planned operation has resulted in deaths. On the contrary, I consider that something spontaneous set the incident off when Soldier E commenced firing at the car in the circle area. Each of the other shootings then followed within a relatively short period thereafter, within perhaps 10 to 20 minutes. In a case where article 2 was engaged, the ECtHR held in *Bubbins v United Kingdom* (2005) 41 EHRR 24, at para 141, that in carrying out its assessment of the planning and control phase of the operation the court "must have particular regard to the context in which the incident occurred as well as the way in which the situation developed". I have discussed the context of the incident above, which is relevant in any event whether planning and control requires to be addressed. I do not consider that there was any particular planning which went into the 'operation' in this case, if it can even be described as such. The issue of control is also not a particularly live issue in the case since the evidence suggests that the soldiers were deployed at individual positions in the woodshed and then, generally, acted independently of further directions or orders from above. The issue of the orders given by Soldier B has been addressed above in the context of discussion of the yellow card.

Identifying the shooters

12.74 I have already commented on a number of occasions that it has been a striking feature of this inquest that there is no sound or obvious basis upon which any of the ciphered soldiers can be identified. All documentation showing who these individuals were is now unavailable. It is unclear precisely how this came to be. Moreover, no military witness who gave evidence was willing to identify themselves as one of the ciphered soldiers. Nor was any military witness willing to indicate who, in their view, any of the ciphered soldiers was (with the limited exception of

the identification of Kingsman Felmingham, discussed in further detail below, albeit no one attributed a particular cipher to him).

12.75 It was difficult even to establish in which platoon many of the military witnesses or other soldiers from the time served; or to confidently determine their rank or position at the time. There appear to have been no records kept of which platoon a soldier served in; and this was not evident from their P Files. There was also evidence of soldiers moving between platoons, at least over period of service or between tours, so that soldiers might legitimately be confused over which platoon they had served in at a particular time, assuming they could remember the platoon number at all. There was frequently confusion over whether and when a soldier was a lance corporal or a full corporal; or what particular rank a soldier held at the time of this tour when they had moved through the ranks over their period of service or had served a number of tours in Northern Ireland. I think most military witnesses did their best to recall others who served with them; but they were trying to remember names and positions from well over 50 years ago. There was frequently conflicting evidence about to which platoon a soldier was attached. It also became clear in evidence that a number of soldiers, some of whom were also related to each other, shared the same surname, adding to the difficulties of witnesses remembering who was who. There was also conflicting evidence about whether soldiers would consistently serve within the same section or whether this was flexible and would be detailed daily or in response to circumstances.

12.76 In all of the circumstances, it is difficult to establish which soldiers were at Corry's Yard at the relevant time on 9 July 1972, let alone which soldier was in fact any of the ciphered soldiers.

Soldiers other than Kgn Felmingham

12.77 I am relatively confident, and find on the balance of probabilities, that Corry's Yard was being guarded on 9 July by a small number of troops from 1 Kings, C Company, 9 Platoon; and that this group was later reinforced by a standby or QRF section drawn from C Company, 7 Platoon. The clearest evidence in this regard is provided by SM100. However, it is supported by a range of other evidence which was available to the inquest. The Tour Diary refers to the OP at Corry's having been "reinforced to one sect +" (see para 4.195). This is consistent with a small group of troops being reinforced by a QRF section, bringing the total complement of troops at the location to just more than a section, perhaps 11-12 soldiers. In turn, that is consistent with a seven-man section arriving (as suggested in the ciphered statements) to reinforce a small guard group of four to five men. In light of the significant action elsewhere that evening which is evident from the army radio logs, I consider it unlikely that more than a small group of soldiers would have initially been guarding Corry's Yard that night. I accept SM100's evidence that he was one of these soldiers; and that SM10 was also present in the yard that night on the basis of each of their evidence. It is interesting that, in response to the correspondence from the MoD in 2016, SM100 volunteered both that he was present; that he was manning

the permanent OP (which would be consistent with his being on guard duty); and that he believed he probably knew everyone who was involved on the army side.

12.78 A letter from CSM Bennett to the HET of 5 November 2012 indicated that he was the Company Sergeant Major of C Company, 1 Kings at the relevant time. He thought it was C Company's 7 Platoon which was in the wood yard "on observation duty" that evening. He indicated that they were fired upon and returned fire, although could not remember the details. (In the material from the MoD 2016 inquiry, CSM Bennett responded by way of a handwritten letter dated 15 January 2016 in which he stated, "I was contacted 4 years ago by the RUC regarding this incident because I was a member of C Coy 1 Kings involved in the incident". In answer to the question, "Do you know anyone who was involved?", he wrote, "As it was my company I can remember some members but whether they were personally involved I cannot say".)

12.79 On the basis of SM100's statement and evidence, I consider it to be established that he was in Corry's Yard on 9 July 1972. He was initially on guard duty and in 9 Platoon, which supports the suggestion that members of 9 Platoon performed this function. His evidence was that he did not give any of the ciphered statements. He had read these in detail and was sure that none of them were his. None of them described what he did; and many of them appeared, he said, to have been in the QRF, which he took to be from 7 Platoon. He had told the MoD in 2016 that he was in the permanent OP at Corry's, which might suggest he was Soldier D but, in light of his evidence in this inquest, I could certainly not conclude that. I also consider it likely on the basis of SM100's evidence that SM117 was in the yard on guard duty. SM100 appeared to remember him distinctly as being there; and SM117's evidence did not persuade me that SM100 was unlikely to be correct on this. Further, it is possible that SM106 and/or SM114 may have been there on guard duty from 9 Platoon. SM100 was more equivocal on their attendance. I think it more likely that SM106 was present than SM114, the latter of whose evidence I was inclined to accept that this was unlikely. However, they each, along with SM107, appear to have worked together regularly, along with SM10 and SM100. I considered there was a good chance that this section, or part of it, was involved in guard duty at Corry's that night. That included SM107, who only engaged with the inquest belatedly and then sought excusal. I view his story of guarding the company base that night which he firmly remembered by way of 'alibi' (see para 4.284(t)) with some scepticism.

12.80 I am satisfied that SM189 was in 7 Platoon. He too accepted being present at Corry's Yard that night as part of the QRF. There was no particular controversy over his platoon. He also gave evidence that other soldiers from his platoon and section were there that night, including SM223 (the section commander) and SM79. I found it significant that SM189 specifically recalled their presence but did not remember others who (other evidence suggested) may have been there, including Sgt Whitworth and SM233 (each of whom was involved in the SPD incident). I also found it potentially significant that SM189 said Kgn Felmingham was *not* with him.

Again, however, his evidence strongly supported the suggestion that the QRF was drawn from 7 Platoon.

12.81 The notes of SM13's HET interview in October 2012 appeared to suggest that SM17 was connected to the guard platoon; SM16 to the standby platoon; and Lt Filler to the patrol platoon. This appears to be a note of the relevant platoon commanders, suggesting that 9 Platoon was on guard duty and 7 Platoon on standby or QRF duty. I was sceptical that SM13 may well have known more names of those who had been interviewed by the RMP, or who had been said to be involved, than he disclosed. He did give evidence about believing Kgn Felmingham was involved (discussed further below). When being pressed on whether he would have known all of those involved, he said that he did not know if he would know *all* of them. He then said he could not remember a single name except for one or two; but the only name he provided was that of Felmingham. I considered, from the way in which he answered questions, and from his indication that he would not even now be prepared to publicly call on other members of the company to be open about the matter, that he did not wish to provide additional names of those who may be known or believed by him to have been involved. He accepted that he probably would have known the names but that he had completely forgotten them.

12.82 I think it unlikely that 8 Platoon was involved. SM123, a Sergeant in 8 Platoon, said that none of 8 Platoon were involved in the incident because they would only have been present if he (or, as he added in oral evidence, the platoon commander) was present. (That may, however, have been based on his belief – which I consider to be mistaken – that there would usually be a full platoon at the yard.) He thought his platoon was conducting vehicle check-points and that it had only guarded Corry's Yard on limited occasions in the past. SM93, from 8 Platoon, gave evidence about being on mobile patrol that day, 9 July 1972, related to the evidence he gave about observing L/Cpl SM9 (also from 8 Platoon) being shot. Such evidence as there was suggested to me that 8 Platoon was on patrol duty; which corroborates the view that it was the other two platoons likely to be involved, 9 Platoon (on guard duty) and 7 Platoon (on standby).

12.83 It is difficult to determine which other soldiers were present that night; and even more so to seek to identify Soldier A and/or Soldier E. In their submissions, the next of kin did not invite me to identify either of those ciphered soldiers. They confined their representations on this element of the inquiry to the submission that I should conclude that SM223 was in fact Soldier B.

12.84 I think it more likely than not that SM223 and SM79 were in Corry's Yard at the relevant time as part of the QRF, along with SM189. His evidence placed each of them there. I believe SM223 did make some comment to SM189 concerning a priest and two gunmen, although the precise nature of what he said is unclear and contested. It was significant enough, however, to be reported back to SM79 and to cause him to feel that it should be reported to his legal representatives (and, in turn, that they should report the matter to me).

12.85 Other candidates as ciphered soldiers were SM16 and Sgt Pete Doherty, although the latter's name was mentioned only in passing and on the basis of rumour only. SM100 gave evidence (set out in his statement drafted by my investigator) that he had "heard through general talk among the company that SM16 was involved"; but he found this a bit strange as "the Officers didn't usually get involved". He could not remember who mentioned that SM16 was involved. However, he went on to comment that "whoever was in charge of the QRF that night would have been at the centre and he would deploy everyone else around him". In his oral evidence, however, he said that the first he had heard SM16's name mentioned was by the HET at his 2013 interview. This was inconsistent with what my investigator had recorded in the draft statement from him.

12.86 SM209 gave evidence of a conversation he had in relation to the incident whilst on the 1 Kings tour in Hong Kong. At that time he had taken over command of C Company. His evidence was that he believed that 7 Platoon of C Company was involved. He went on to say that WO2 SM16 was the platoon commander of 7 Platoon on that tour. Having read the ciphered statements SM209 said he did not know WO2 SM16's role in the incident; however, it seemed clear that he believed SM16 had some role. He did indicate during his evidence that, in the 1972-1974 period, he would have been made aware of the full story, although not at the time of the incident itself. He could not remember who told him or why but did say he would have had the "whole story unraveled" to him. I considered this significant since SM209's later knowledge, as a senior officer at the time, does not appear to have been mere idle rumour or gossip. It also would have given him a basis for either believing, or not, the details of those whom he continued to believe had been involved. He said that he was told of an incident in Corry's Wood Yard involving a series of exchanges of fire between gunmen and 7 Platoon. The whole thing was reported back to Brigade and it was a significant incident.

12.87 SM209 said he was unable to provide more detail than that. He said he was not told that five civilians had died and did not know what or who. I am afraid I did not believe SM209 when he said that he could not remember any more detail, in light of his earlier evidence that he had been told the "whole story" and his later evidence that, having taken over command of C Company and 7 Platoon, the person who spoke to him thought he would be interested to hear. In fairness to him, he did make the case that his recollection had faded spectacularly. He said that he had been surprised to hear from the LIU that five civilians had died. He had not learned that before as he did not "cross-question" the person who had spoken to him in Hong Kong and just accepted what he was told. He said there was no further discussion of the incident after 1974 until the present from his perspective. In any event, I did believe that SM209 was prepared to disclose his belief that 7 Platoon were involved in the firing and that SM16 had some involvement also; and that he would have been well-placed both to discount what he was told unless he considered there to be a proper basis for it and to form his own view on who may have been involved.

12.88 SM123 also gave evidence that he had heard general talk that SM16 and Peter Doherty had been involved. It made sense to me that SM16 was likely to be called upon in the situation which had arisen, with the end of the IRA ceasefire and a call for support from Corry's Yard. SM16 had been called and come to the incident at Corry's Yard recounted by SM349 (see para 4.284(m)). When being asked about the day on which SM333 was shot (3 May 1972), SM109, a corporal in 7 Platoon, indicated that the platoon commander may have come with him, which he said happened a lot of times, and would bring 7-8 men. I am satisfied on the balance of military evidence that SM16 was the platoon commander, or acting platoon commander, of 7 Platoon at that time. SM16 clearly played a major role in the defence of Corry's Yard in the May incident discussed in Chapter 3. He seems to have been something of a go-to for quelling trouble at that location.

12.89 I also consider it likely that SM79 was deployed in Corry's Yard that night as part of the QRF, notwithstanding his denial of this. I found it significant that SM79 said that SM16 was a very good CSM, whom he trusted and who was dependable. SM79 said he "felt safe when under his command" and he did not really think the other officers were good at keeping the individual troops safe.

12.90 SM16 was the commander of the platoon described in the book 'Difficulties be Damned' as the most successful and tested platoon, which seems to have been credited with involvement in the incident in Springhill which may be referring to the events of 9 July 1972 (see para 4.212). Highly significantly, we know that he was present in the area at some point that night given his witness debrief form in relation to the SPD incident. This is not wholly determinative for two reasons. First, it is possible (although I think unlikely) that he came on duty for the evening only at the point recorded in the witness debrief form. Second, the army radio logs suggest at 23.17 that two sub-units had been deployed to deal with the gunman in Corry's Yard firing at Dunboyne Park. It is unclear where they came from. I consider it likely that at least one of them, perhaps both, were composed of soldiers who were already stationed in Corry's Yard; but this is not entirely clear.

12.91 SM16's debrief form describes him as being in a fighting patrol, with the duty commencing at 23.15 at the SPD Factory. He is noted to have no vision aids (i.e. no sniper scope) and to have just used the normal weapon sights. He is recorded as having discharged rounds at gunmen. SM278, a corporal in the SIB of RMP, gave evidence that in Soldier E's statement he referred to being part of a "fighting patrol". He said this was a term that he had never come across before. However, he also noted that this was a term used in a debrief form in an incident which he was investigating, in that case being used by SM16. SM278's evidence was also that the time the commencement of duty recorded on debrief forms would have been given to him by the soldier in question. In relation to the time given on SM16's debrief form (re CCRIO ref 8553/2), he did not think that would be a usual time for the commencement of duty and thought that SM16 would have been doing other things elsewhere before coming to that particular duty.

12.92 In all of the circumstances, however, I consider it more likely than not that SM16 was in Corry's Yard at the time of the shootings which gave rise to the deaths in this inquest. I do not believe it is possible to conclude on the balance of probabilities that he is one of the ciphered soldiers, much less (assuming he was one) which of them. Any attempt to do so would amount to little more than speculation.

12.93 I also consider it a strong possibility that several, if not all, of those who were the subject of witness debrief forms in respect of the SPD incident were in Corry's Yard earlier that night. (I note that there is a comment from the SIO in one of the HET file notes in which, after inspection of RMP records at Thiepval Barracks, he expressed the view that it was highly likely that the same soldiers as involved in the 8553/2 shooting incident were also involved in the subject of Operation Portola/Portville.) Those soldiers – in addition to SM16 – were SM233, SM79 and Sgt Whitworth. Relatively little is known about Sgt Whitworth; but he was suggested to be in 7 Platoon by SM109. Sgt Whitworth's debrief form describes the nature of his day as being 'foot patrol', with duty commencing at 22.00. He noted that elements of A Company were also deployed to the general area; and his location is noted as at the junction of Dunboyne Park and Springfield Road. This suggests that he was outside the Corry's complex. He did, however, search the SPD building and the Springmartin junction. The aiming aids used look to be 'telescopic SLR sights'. He discharged one round, seemingly in the course of a general fire fight. He is the member of the cohort of those who completed witness debrief forms in relation to the SPD incident who I think least likely to have been in Corry's Yard at the time.

12.94 In the witness debrief form, SM233 described his duty as being 'stand by' and said he commenced duty at 22.00. He was armed with a sniper rifle. His debrief form also refers to troops firing at streetlights; and later indicates that he discharged four rounds at streetlights. The vision aids used are noted as 'telescope' and aiming aids used as 'telescopic sights'. This is likely to be what was referred to as a sniper scope, particularly since SM233 was armed with a sniper rifle.

12.95 Two of the ciphered soldiers – Soldiers B and G – both indicate using a sniper scope but on the SLR rifle which they carried (which adds a further element of confusion, given the evidence around such scopes not generally being fitted to SLR weapons). The evidence given by military witnesses in relation to sniper scopes is discussed in some detail in Chapter 4. SM10's evidence was to the effect that such scopes would only have been issued to those who had been specifically trained as snipers, of whom there would usually only be one or two in the Company. He was surprised that there would have been two such persons among a group of seven. SM233's personnel file indicated that he had been trained as a sniper from 21 April 1972.

12.96 Given the evidence discussed in Chapter 4 to the effect that there were very few snipers in the platoon and very few sniper scopes issued, yet two ciphered soldiers (Soldiers B and G) refer to having sniper scopes, I consider it quite possible that SM233 may have been one of those soldiers. On balance, I consider it likely that

he too was in Corry's Yard earlier that evening. Some support for that may also be found in the HET note relating to him (see para 4.385). It is impossible to conclude, however, whether he was one of the ciphered soldiers or which.

12.97 Soldiers A and E mentioned firing at a lights in the later stages of their duty. This may therefore also be a basis for suggesting that a soldier known to have done so in the SPD incident may be one of those soldiers. Soldier A fired at a light located on the wall of the SPD factory building about 23.45. SM233 is said to have fired four rounds at streetlights, around 00.30. Soldier A was armed with an SLR, whereas SM233 was armed (according to the debrief form) with a sniper rifle. Soldier E also referred to shooting a streetlight (between 41 and 32 Westrock Drive) which was hampering his vision with the starlight scope. (It is difficult to know where this is referring to, since Nos 41 and 32 are not in proximity to each other). No time is given for this; but it is clearly after 22.00. This is much too flimsy a basis to suggest, however, that SM233 (even if present) was this soldier. Any attempt to match an identified soldier to a ciphered soldier on a basis such as this is, however, again fraught with difficulty and insufficiently reliable to make any finding.

12.98 SM79's debrief form also described the nature of his day as 'fighting patrol'. He is noted to have commenced duty at 00.30 on 10 July. (This is the time when Soldier B notes that he remained in Corry's Yard until, before patrolling the outlying area of the yard. Soldier C says that he left his position at 00.20 and then patrolled the outlying area of the yard.) SM79 was said to have used a starlight scope as a vision aid and fired one round at a gunman during the course of the SPD incident.

12.99 SM223 was not involved in the SPD incident but was nonetheless placed in Corry's Yard by SM189. SM223 was clearly in 7 Platoon on the basis of a variety of evidence, including his own (although there was some doubt about his rank at various points). He was also trained as a sniper. On a similar basis to SM233, this materially increases the probability that he was also one of the soldiers in the yard with a sniper scope. SM223's brother was SM108, whose evidence I generally found credible. However, I was not convinced of the honesty of his answers to Mr O'Rourke, in re-examination, to the effect that he had never asked his brother (SM223) whether he was in Corry's Yard on the night of 9 July 1972. When asked why he did not ask him, he answered, "Why should I?". He knew there was an investigation in relation to the incident and accepted that he had asked SM223 whether he was contacted about it but did not ask him whether he was there. I found that very strange; unless SM108 already knew whether his brother had or had not been there. SM108 also did not mention that SM223 was sniper when dealing with sniper issues in his evidence, which may be thought to be a significant omission.

12.100 In all of the circumstances, I think it likely that SM223 was also in Corry's Yard that night. I do not consider that I can find on the balance of probabilities that he was Soldier B. There is some evidence which might support this possibility; but I think it unlikely that he would have been a section leader in command of others, as

suggested, particularly when some more senior officers were likely to have been in attendance. SM233, also a sniper, had previously been a lance corporal (although was demoted around six weeks earlier). It is possible that, notwithstanding his demotion, he could still have 'acted up' as a section leader, although this appeared generally to be unlikely and unusual on the military evidence. SM223's P File supported his evidence that he was not in fact a lance corporal on 9 July 1972. It suggests that he was merely a kingsman until 19 September 1972, at which point he was promoted to sub-lance corporal (to fill a vacancy) before later being demoted in July 1973 back to kingsman at his own request and re-promoted again in July 1974 whilst in Hong Kong.

12.101 Returning to SM79, the issue of him having a very similar name to another soldier is complicated. He said that, strange as it may sound, there were two soldiers with the same first and last names in his platoon and they shared the same room. A variant of the other soldier's first name was used for him. He also had a different ethnicity with an unusual original surname, which he had changed to the same surname as SM79. He indicated in his evidence that the other soldier was shot and SM79's parents were informed in error that he had been killed. SM79 went on leave to speak with them and SM79 thought this was around 1972 or thereabouts.

12.102 Having considered the unredacted version of the SPD incident debrief form, it was difficult to ascertain how much strength there was in the points made by SM79. The correct month and year of his date of birth appear to have been used. It is very difficult to read the day given, although it may well be that this is noted incorrectly (it is very hard to tell). The surname was really just a handwritten version of the relevant surname in capital letters. It is correct that this does not match the full signature provided in the document appended to SM79's second statement; but that is not conclusive that he did not write his surname in a different manner under different circumstances.

12.103 In his second statement, SM79 provided the unusual original surname of the other soldier. Enquiries were made about this other soldier in order to ascertain whether there was force in the suggestion that there may have been a mix-up. There was another soldier (SM183) who shared the same surname as SM79 and the first initial of their Christian name (although the Christian names were different). They obviously had different army numbers; and not ones which could be easily confused for each other by a slip of the pen or simple mistake in a digit or two. The day, month and year of SM183's date of birth were all different from those of SM79. The identification details of this soldier strongly suggest that he was *not* the other soldier, of a different ethnicity, who had been described in SM79's second statement; nor did he die at any time during that tour. Requests of the MoD for details of other soldiers with the same last name did not disclose any other soldier who might have been a candidate for the subject of the debrief form on 10 July 1972. MoD searches for a soldier in 1 Kings with the unusual surname - and around 15 variations on this surname's spelling - also did not identify any matches. One other soldier, SM109, mentioned the soldier whom SM79 was referring to (with the same surname as SM79

and a variant on SM79's Christian name also). SM109 knew him by his original surname and recognized his different ethnicity. He said the Sergeant Major made him change his name but that he did not think that happened until after 1972; and the same surname as SM79 was chosen.

12.104 I have also considered SM79's personnel file. The army number on the debrief form seems to match that of SM79. There is no indication in the P File of leave dates. It does indicate that SM79 was awarded detention by his commanding officer on 19 July 1972, suggesting that he was on duty in Northern Ireland at that time. The P File, when giving reasons for SM79's discharge, suggests that he had "never really matured and lives in a world of fantasy and lies". In June 1974 he was said to have stolen an officer's watch. There were continued breaches of discipline and, as his conduct was not improving, it was recommended in the interests of the service that he be dismissed.

12.105 In summary, I concluded that SM79's attempts to deny that he was the subject of the SPD witness debrief form were an elaborate exercise in obfuscation. It seems to me much more likely than not that the form did relate to him and confirms his attendance in the vicinity of Corry's Yard in the early hours of 10 July 1972. My ultimate assessment of his evidence on this issue undermines his credibility generally in my view. I was inclined to believe SM189 that SM79 too was present as part of the QRF that night. I also note that SM279, another RMP corporal, gave evidence to similar effect as that of SM278 (see para 12.91 above) and drew attention to the use of the term "fighting patrol" by SM79.

12.106 The HET appear to have been assisted by a soldier called Peter Valentine, who died in 2013, particularly in relation to the tracing and positions of other soldiers. In the materials disclosed from the HET, there is an email between two HET officers on 17 December 2012 in which one says that Peter Valentine had contacted HET and said "he was in the top sangar in Corries on the day in question but believes he was on standby when the priest was killed". The email continued that Mr Valentine could not add a great deal of information, except that a Fijian soldier, Keith Gwilliam, was with him in the sangar. The email further reports Mr Valentine as having indicated as follows: "He knew Fellingham and was friendly with him. Doesn't believe Fellingham was involved on the night in question as he hadn't heard about the regimental myth of being punished by God!"

12.107 On the basis of this email - although it is a slim basis - there is a possibility that Mr Valentine could have been a ciphered soldier. It is difficult to know what the 'top' sangar referred to. I initially thought this was the elevated sangar at the northwest corner of the site, that is, the top of the Corry's site. It could also conceivably refer to the highest OP in the wood shed. Since the email also indicates that Mr Valentine believed he was on 'standby' when the priest (presumably Fr Fitzpatrick) was killed, this could suggest he was part of 7 Platoon. However, that statement appears to have been suggesting that he believed he was on call and not actually present when the priest was killed. It is difficult to time when Mr Valentine

may have been in the sangar, if indeed he was. Not much is known about Mr Valentine from the evidence in these proceedings and he did not feature to any great degree. SM123 said he was in 8 Platoon; but it is difficult to know whether this is correct. Kgn Gwilliam died in 2008 and the inquest team was also unable to confirm his platoon, although SM93 also named him as part of 8 Platoon. SM349 (in 8 Platoon) described being on duty with him in Corry's Yard during the ceasefire. In his HET interview, SM100 recalled a number of soldiers in C Coy "mainly" from 7 and 9 Platoons. Kgn Gwilliam was listed but is not identified as part of any particular platoon. During his evidence, when asked what platoon Kgn Gwilliam was in, SM233 responded "I'm going to say 9 Platoon". This is another example of the difficulties faced in seeking to identify the ciphered soldiers.

Kgn Felmingham

12.108 The one name which featured regularly in the military evidence as someone whom soldiers had heard *may* have been involved, particularly in the death of Fr Fitzpatrick, was that of Kgn Mick Felmingham. Much of this evidence related to a rumour or story which circulated after Mr Felmingham's death during 1 Kings' Hong Kong tour. However, perhaps more significantly, some of it related to stories which some soldiers thought they may have heard before then, whilst in Northern Ireland. It is helpful to try to keep the two periods separate.

12.109 SM100 gave evidence that, when he got back from his transfer to Black Mountain (around two days after Fr Fitzpatrick's death) he heard a rumour about Mick Felmingham having shot the priest. He could not remember who told him this (he thought it was soldiers from his own platoon) but it was a couple of days after the events, at their camp. Kgn Felmingham was not himself part of this conversation. As this was just hearsay, SM100 did not pass this on; nor make any enquiry of Felmingham himself. He later said a reason why he did not confront Felmingham was because he was a "monster", with size 13 feet and fists the size of a football.

12.110 SM13, the 2IC of C Company at the time, gave evidence that the only person he heard of being involved in the shooting of civilians was Kgn Felmingham. SM13 said he thought Kgn Felmingham shot John Dougal. He said that Felmingham was in the yard at the time but he could not remember how he knew this. He thought that John Dougal had been shot at Corrigan Park, which was the area that was used to shoot into the yard. (In light of my findings and the evidence in the inquest, this is plainly wrong.) When questioned about what he heard, SM13 said that he could not remember exactly when he heard this, but it was not long after the incident happened, perhaps hours after. He could not remember who had said this but thought it was probably talked about in the Ops Room; later adding that this would have been known to everyone in the Ops Room. He thought this would have been reported to the Battalion HQ (although the radio logs the inquest have been provided with do not support that supposition). SM113 was on the tour in Hong Kong but could not recall hearing any information about Felmingham's involvement

when there. He thought he would have remembered if he had been told that Felmingham had shot Fr Fitzpatrick, whom he knew. Later in his evidence, however, in answer to questions from me, he said that he did think Kgn Felmingham had shot Fr Fitzpatrick but that he had not known it was a priest (he was coming to take the gun away from Dougal) and found out after. He was the only one who had sight of that particular area. That was what they heard after the incident.

12.111 The note in relation to SM10's HET interview indicated that SM10 confirmed that, after the night in question, "it was discussed in his unit that a soldier called Felmingham was responsible for firing the shot, killing Fr Fitzpatrick". It is unclear precisely when this may have been.

12.112 Turning to what may have circulated at a later point in Hong Kong, SM10 said in his statement that he had started the rumour about Felmingham in Hong Kong, namely that Felmingham died because he had killed the priest and it was the priest's way of getting him back. SM10 said this was "for a joke but it spread like wildfire through the Company", although "half of the people talking about it never even knew Felmingham". SM10 said that he did not know if Felmingham was involved in the shooting and now regretted saying what he did. In oral evidence, he said he knew Felmingham quite well and described him as a "solid ordinary soldier". He used to collect absentees and Felmingham was his escort. However, Felmingham never spoke to him about an incident in Corry's Wood Yard; and SM10 did not think that he spoke to anyone.

12.113 SM10 said that there was a rumour about Kgn Felmingham being involved in a death prior to the tour leaving Northern Ireland; but this was just a rumour and not substantiated. SM10 said he did not know anything about the detail of what Felmingham was rumoured to have done. He also said he did not know if Felmingham had been in the yard that night; but, if he was in the yard, it could have been true. If he was not in the yard, then it would not have been true at all.

12.114 SM117 said he had heard a rumour in Hong Kong that Mick Felmingman had shot someone. He did not remember who it was said he had shot but he believed one of them was a priest. SM108 also heard the rumour in Hong Kong. He said he knew Kgn Felmingham, although he was not part of SM108's platoon. SM108 described him as "a good kid" and said he was trying to fix a TV aerial when he died. SM108 could not remember who told him about the rumour but said it was just general gossip. SM123 had also heard about Kgn Felmingham having some involvement in the Springhill incident. He was a chap SM123 had nothing to do with. He was aware Felmingham died after falling off a roof whilst fixing a TV aerial. He heard, at his funeral, that he had been involved in the shooting but that was all he really knew.

12.115 SM109 said that Mick Felmingham was in his section in 8 Platoon in Hong Kong and was a big gentle fellow. He had spoken to him just before his death, which was a tragic accident when he fell off a roof while trying to fix the TV aerial.

SM349 remembered Kgn Felmingham. His belief was that Felmingham had committed suicide by jumping off a building, as a result of a letter he had received from back home breaking off his engagement. SM349 said that he saw him with the letter and saw him get up, upset. He later said he did not know if Felmingham committed suicide and he could have been fixing a TV aerial; but that he was upset with the letter he had received. He could not remember any rumours about Felmingham being involved in the shooting of civilians.

12.116 SM114 said he knew Mick Felmingham but did not remember him being in Northern Ireland. He said that he would have stood out as “he was a big lad”. SM114 said he first met Kgn Felmingham in Hong Kong and was with him on the night that he died. He said that it was an accident: he was trying to fix the TV aerial, went onto the roof and fell into a storm drain. He remembered this clearly and said that he did not recall any rumours about this being retribution for being involved in shootings. SM95 also knew Felmingham but said he had not heard any rumours about his involvement. He said he was an eyewitness to his death and saw him “fall off a roof right in front of me”. He said he was not aware of anything which made him particularly upset and said it could have been a letter or news from home, he did not know. Kgn Felmingham’s personnel file refers to him falling off a roof, having been up working on an aerial.

12.117 A range of other military witnesses said they had not heard the rumours and knew nothing of this, for instance SM382. Potentially significantly, SM209, the senior officer who had a discussion about the incident in Hong Kong in 1974, said that he did not recall Felmingham. Although he recalled vaguely that he fell off a roof, the rumour that he may have been involved in the Springhill incident did not “ring a bell”. SM16 also said he was not aware of any rumours about Felmingham in Hong Kong.

12.118 SM79 of 7 Platoon said he did not know Mick Felmingham and never heard of him after having been in Northern Ireland. I had concerns about SM79’s credibility in terms of whether he was or was not present. However, it was interesting that he did not recall Kgn Felmingham. On one view, it would have been easy for him, like others, to ascribe the shootings, or some of them, to this soldier; on the other hand, he (or others) could have considered it inculpatory or prejudicial in some way if they indicated that they recalled or were familiar with Kgn Felmingham in light of the rumours in relation to his involvement.

12.119 Significantly, SM189, who named a number of soldiers who travelled with him as part of the QRF to Corry’s Yard on 9 July 1972 did not recall Kgn Felmingham being there. His physical description by other soldiers made me think he was likely to be a memorable character.

12.120 On the basis of the evidence available I cannot conclude on the balance of probabilities that Kgn Felmingham was one of the ciphered soldiers. If there was any truth to the rumours, I consider it likely that he would be Soldier A. But, in

truth, the support for this amounts to rumour only. I would be inclined to place more weight on the evidence suggesting that Kgn Felmingham was known or suspected to be involved in the incident (a) shortly after the event and before the Hong Kong 'joke' gained currency and/or (b) where those who thought this would themselves have been in a position to know whether it was or was not correct, or likely to be correct. However, it is possible that the rumour which emerged in Hong Kong became relatively widely known and that witnesses now have a false memory of having heard a similar suggestion at an earlier point. I am also conscious that, in view of the rumours and his having died many years ago, Kgn Felmingham could have (consciously or sub-consciously) have become something of a risk-free scapegoat for those wishing to point the finger in some direction.

Alleged involvement of other units or soldiers outside 1 Kings

12.121 At various points in the course of the evidence, there were (faint) suggestions or enquiries about the potential involvement of some other soldiers or units unconnected to 1 Kings. No evidence in the MoD documents was brought to my attention, or argued by any PIP, to support such a theory. The oral evidence given by military witnesses very much suggested to the contrary.

12.122 For instance, SM100, who was perhaps the most open about soldiers he understood to be in attendance (as he was) at Corry's Wood Yard on the relevant night, was asked by Mr Moriarty if he was aware of any other units operating in the yard and said that he was not aware of that. Mr Mansfield asked SM16 about the possibility of other soldiers from another regiment being there. SM16 said this was not the case to his knowledge and would be "highly unlikely". SM57 gave evidence of the importance of intercompany boundaries (the TAORs), indicating that you would not transgress into another company's area without seeking permission. He said that companies stayed within their boundaries. SM123, when being questioned about his evidence of sniper scopes not being permitted in 1 Kings, nonetheless was of the view that all the soldiers involved in the tragedy were 1 Kings.

12.123 In Brian O'Kelly's evidence he indicated that he had had a meeting with the HET who told him that a soldier had been identified through a book called 'Killing for Britain' as the perpetrator; and that the soldier had subsequently killed himself. This was an issue which was addressed to some degree by the HET. The suggestion related to a former soldier called Michael Norman who was found dead in his car in 2005. The death was initially thought to be a suicide but there were also suggestions that he may have been murdered by some form of 'IRA revenge squad'. He was suspected to be the character 'Mike' in the book referred to by Mr O'Kelly; and also was said to be an anonymous witness in the Bloody Sunday Inquiry. The account in the book suggests that a soldier from the Military Reaction Force (MRF) was called from Palace Barracks in Holywood and went with two others to "give the Army a bit of a hand in West Belfast"; that they travelled there in three landrovers, arriving during intense gunfire; and that 'Mike' was responsible for shooting the priest and another man. There are aspects of the account which match what happened,

although with details which would have been readily available in the public domain (and it is clear that the author had consulted the *Lost Lives* publication). There are other aspects of the account which seem outlandish and/or not in accordance with what is clearly suggested or established by other evidence. For instance, it is suggested that the priest and further man to die (with one bullet) were coming out to try to help a *woman* who was shot and on the ground (and, therefore, likely Margaret Gargan). This is utterly at odds with all other evidence as to their respective locations.

12.124 As indicated above, I saw and heard no evidence to support this, other than the account in the book itself. The evidence suggests that the person who in fact shot Fr Fitzpatrick and Patrick Butler was a soldier, Soldier A, who had been serving in Northern Ireland with his unit since April 1972, when 1 Kings deployed there on its tour; and that this soldier was available for interview by the RMP the following day. Although one can never be certain about the activities of covert units such as the MRF, I am more than content that, on the balance of probabilities on the evidence before me, the ciphered soldiers were regular soldiers under the command of 1 Kings at the time.

Conclusion in relation to identifying the shooters

12.125 I believe that the inquest heard evidence from a significant number of soldiers who had no involvement whatever in the events of 9 July 1972 which are the subject of this inquest. (That was, of course, one of the consequences of the army no longer being in possession of the relevant ciphered list or any documentation which identified the makers of the ciphered statements.) I believed many of them when they indicated that they had no knowledge or recollection of the events. Some of these witnesses, of course, may have forgotten relevant details or may even have been dishonest to a greater or lesser degree. At this remove, however, and with the limited documentation available, it is simply impossible to so conclude in the vast majority of cases. As I have mentioned in Chapter 4, I think it likely that, although the soldiers directly involved may have discussed the incident between themselves, there was not a widespread knowledge of the detail of the incident within the relevant company. In my view that, in itself, is telling.

12.126 I have been able to form a view about soldiers who I believe were present at some stage and in some position within the yard on the night of 9 July 1972 at times material to the deaths which are the subject of these proceedings. In my view, however, it is impossible to conclude, even on the balance of probabilities, what the true identity is of any of the ciphered soldiers; and, in particular, of Soldier A or of Soldier E. To seek to do so would amount to little more than pure speculation.

The suggestion of loyalist paramilitary involvement

12.127 The Springhill Massacre booklet complains that, in a news report shortly after the incident, there was a claim that the UDA was responsible for the killing of

six people in the Ballymurphy area on 9 July 1972. It was reported that three UDA men had been seen leaving a timber yard from which there had been intensive sniper fire the previous night; and that early morning workmen saw them disappear in the direction of the Protestant Springmartin estate (see para 3.99 in Chapter 3). The Springhill Massacre booklet indicates that this story was believed by local people to be a product of a British Army Press Office. The army was also said to have stated that it was possible for UDA men to have operated in the timber yard because the view from the army observation post was limited.

12.128 I also found no evidence to support this theory; nor that it was the product of army press office misinformation to deflect attention. That latter complaint is at odds with the further complaint from some members of the community that the army (wrongly) claimed that its soldiers had themselves shot terrorists. The sighting appears to have come from one (unidentified) workman. No other evidence in the inquest has supported the theory that there were men in the wood yard at the relevant time wearing UDA uniforms, hooded and masked. (It might be that such a report was part of the inspiration for the theory advanced in the book addressed at para 12.122 above). Although the military spokesman at the time appears to have accepted the possibility of other gunmen operating from the yard without army knowledge, I consider this is unlikely (a) because of what is now known about the likely number of soldiers, from both 7 and 9 Platoons, stationed at various positions within the yard and woodshed; and (b) because the radio logs support the suggestion that gunmen (firing towards the Protestant Dunboyne Park area) from within the yard were quickly identified and cleared from the area.

12.129 A number of civilian witnesses indicated that, at the time of the shootings or shortly afterwards, there was speculation or a belief in the local community that loyalist paramilitaries were responsible. This does not appear to me to have been based on any empirical evidence, nor on any information promulgated by or on behalf of the army, but rather as reflecting a belief that the army was unlikely to have shot at civilians in such an indiscriminate way. The suggestion of loyalist involvement circulating in the local community was mentioned by Kate Donnelly, John O'Donoghue (on his own account and referring to his conversation with Brian Muckian) and Thomas Ramsey, by way of example. Something similar was mentioned by Mary Moore, who said she would not have liked to think that loyalists could shoot as well as the person shooting that night, since he hit everything he tried to.

12.130 For their part, the management of JP Corry's published an information notice entitled 'Corry's Woodyard - The Facts' in local press after the yard was destroyed by fire on 18-19 July 1972. Amongst other things, the notice said as follows: "There have been NO "hooded or masked gunmen" shooting from our timber yard into the Catholic estates. (The presence of our maintenance men, who wear masks when cleaning the boilers, may have given rise to this allegation)." The notice went on to contend that allegations of UVF gunmen shooting at Catholics from the Corry's roofs were made after army reports of gunmen on the roofs of neighbouring buildings, not

within the Corry's premises. (This was likely the SPD building and other neighbouring premises such as the laundry and Heinz factory.) It was further contended that IRA gunmen had entered the timber yard at night and fired at Corry's security staff and the army, which had requisitioned areas of the yard. The HET team interviewed Mr Roger Corry in November 2011, who had been in his early 20s in 1972 and spent time working at the Springfield Road branch. He acknowledged he had heard rumours or allegations that the army used loyalist gunmen in sniping positions; but denied any knowledge or awareness of same. He also said he was never himself aware of an IRA gunman operating from within the compound; but accepted that this was a theoretical possibility given its size (26 acres). He emphasized that the workforce was representative of the community, with a 66/33% Protestant/Catholic split.

12.131 General evidence from the time suggests that there was occasional shooting between estates at this interface area. The RUC Duty Officers' Report for the period records that, at 9.12 pm on 9 July 1972, there were four high velocity shots fired from the Springmartin direction towards Henry Taggart Hall, with a comment that "it is possible that they were intended for the Ballymurphy area" but that there had been no injury. (A further entry at 9.51 pm records one high velocity shot in the other direction, from Ballymurphy at Springmartin.) Any such shooting appears to have been sporadic and I do not consider it likely to have had a material impact on the subject matter of this inquest. I have considered separately in Chapter 11 the intelligence material suggesting some loyalist involvement in the shooting of Margaret Gargan, which I have discounted.

12.132 I have found no evidence supporting the theory that loyalist gunmen were embedded with the army in Corry's wood shed on the evening of 9 July 1972. It must be said, however, that the absence of the company-level radio network logs and other information which might identify the ciphered soldiers is the type of issue which permits, and may indeed encourage, such theories to gain root.

Adequacy of the investigation(s) at the time

12.133 As this is not an article 2 inquest, I need make no findings as to the adequacy of the earlier investigations. It will be clear from the discussion in Chapter 7, however, that I do not consider that, until now, there has been an adequate and effective investigation of the deaths.

12.134 There plainly was an RUC investigation of sorts in these cases. The bodies were examined by way of post-mortem examination; photographs of the bodies were taken; swabs, samples and other evidential materials were taken from the bodies (including clothing) and sent for forensic examination. The area was mapped by the RUC. It is not the case that no investigative steps were ever taken. However, viewed by today's standards it is clear that the investigation was wholly inadequate.

12.135 There are a number of reasons for this. The situation on the ground was such that it is clear that preservation and forensic examination of the scene was simply impossible. That is beyond doubt because of the gunbattle which, in a common case, continued for several days and required residents (in particular, children) to be evacuated from the area. Given the political and security situation at the time, I have grave doubts about whether it would have been possible for the police to attend in these areas to progress any investigation in any event. However, it is clear that that was simply not an option in the circumstances of this case. I do not consider that the police can be justifiably criticised for failing to pursue a number of evidential enquiries in the circumstances, notwithstanding that this would clearly have been desirable.

12.136 It is also clear from the contemporaneous records of DS McBurney, including in particular his memorandum to the Detective Chief Inspector of 'B' Division discussed in Chapter 7, that he did make attempts to engage with members of the local community but found it exceedingly difficult, if not impossible, to obtain statements. It is difficult to know precisely why this would be so. On one view it may be because residents did not wish to be asked about the full extent of their knowledge of what had occurred that night or in the following days. On another view it may simply be because of a lack of trust of the RUC or an unwillingness to be seen to be cooperating with them in any way. Again, however, for this reason it seems likely that what would now be considered to be a normal police investigation was simply impossible in the circumstances as they pertained.

12.137 However, as has been commented upon on many occasions previously, in circumstances where allegations had been made as to the unlawful and unjustified use of force by the army resulting in civilian deaths, there were clearly a range of other investigative steps which could have been taken. These principally involved further enquiries, or following further lines of enquiry, in relation to army witnesses, information and physical evidence.

12.138 I have some sympathy with the suggestion raised in evidence that it may have been impracticable, given the security situation at time and the level of threat under which army units operated, for a large number of soldiers' weapons to be surrendered for forensic examination. However, on the basis of SM344's evidence, I consider it likely that a practical solution to this issue could have been found, if necessary. At any rate, some further attempts could have been made to record and/or examine the weapons involved. The serial numbers of such weapons could have been recorded (as they were on the SPD witness debrief forms); but there is no evidence that this was done, with the serial number recorded only in one of the ciphered statements. (I should add that this did not match any of those recorded on the SPD witness debrief forms.) Further enquiries could have been made in respect of armoury or ammunition logs to seek to verify which soldier had discharged rounds (and therefore required them to be replaced before going on duty again) and how many rounds had been so discharged. These are basic evidential enquiries

which do not appear to have been pursued. At the very least, there is no evidence now to suggest that these were pursued to an appropriate extent.

12.139 There were plainly frailties and pitfalls involved in the arrangement between the army and the RUC at the time as to the division of labour in cases where the unlawful use of force by the army was an issue. The MoD's submissions accept that there is "justifiable criticism" to be made of the form of the investigation conducted by the two bodies. These have been addressed in previous inquiries, such as the Bloody Sunday Inquiry, and do not require repetition in this case. Nevertheless, the evidence in this inquest suggests that communication between the two investigative bodies was suboptimal. It seems clear that members of the SIB of the RMP going to interview soldiers would not have had an appropriate level of information which might then have been available in order to ensure that the interviews were robust and probing; nor that there would be any follow-up interviews with soldiers by the RUC as its element of the investigation progressed.

12.140 None of the further processes undertaken since have provided an effective investigation and outcome for the reasons discussed in Chapter 7. The regrettable result is that this inquest has been required to grapple with evidential issues in circumstances, and at a time, which are far from ideal for the reasons mentioned at the commencement of this chapter.

Innocence of the deceased

12.141 A central concern of the next of kin in inquests such as these – particularly where there is or has been press coverage suggesting that the deceased were shot because they were gunmen or involved in unlawful, violent activity – is to 'clear the name' of their loved one. Sometimes that is possible and appropriate; and sometimes not. Although it does not form part of the statutory questions to be dealt with in a verdict, addressing this issue is a classic instance of allaying rumour or suspicion (see further the discussion in Chapter 2).

12.142 I took SM123's evidence seriously when he emotionally expressed the view that all five civilians who were killed that night should not have died and that the matter had been poorly handled since then. I do not consider that he made these comments lightly. He said he had reached these views after researching the matter and speaking to other officers (who did not wish to be named). His actions in referring matters to the CSM shortly afterward when he heard soldiers discussing the issue indicated to me a concern on his part then, as now, for the right course to be followed and for the reputation of the regiment to be safeguarded. That was not by sweeping things under the carpet but, rather, having them properly addressed and accepting fault where that was due. SM123 remained in the army until 1994 and retired holding the rank of Major. He was plainly an 'army man'.

12.143 I am confident that Fr Fitzpatrick, Patrick Butler and Margaret Gargan were wholly innocent victims at the time they were shot. In the initial inquest, the

Ministry of Home Affairs does not appear to have raised any issue about this as far as Fr Fitzpatrick and Margaret Gargan - "the priest" and "the girl" respectively - were concerned, notwithstanding the proximity of the events and the knowledge at that time of the identity of the soldiers who had given the ciphered statements. The same concession does not appear to have been made in respect of Patrick Butler; and I consider him to have been the most maligned by suggestions arising after the fact that he was an IRA gunman, a known terrorist, or something of that sort.

12.144 The position in relation to David McCafferty was not, in my view, quite so straightforward, given his involvement with the Official IRA Fianna. However, for the reasons given in Chapter 10, I have reached the conclusion on the evidence presented that he was unarmed at the time that he was shot and that, whatever his sympathies, he was not engaging in any offensive action at that time. On balance, I consider that he too should be viewed as an innocent victim.

12.145 The position in respect of John Dougal is more complex still. I have not been satisfied on the balance of probabilities that he was armed at the time of his death. However, I am also not satisfied that he was acting innocently or with lawful motives at the time of his death. He has, in a variety of ways and in a range of settings, been publicly feted as an IRA volunteer; and has been lauded as having been killed in the course of action. As I have commented in the course of Chapter 9, I remain deeply suspicious of what the occupants of at least one car, and probably both, which stopped at or around the circle area on Westrock Drive may have been doing or planning; as I do in relation to the actions of John and Brian Petticrew and John Dougal in the period immediately preceding John Dougal being shot. I believe the detailed rights and wrongs of precisely what was happening at that point are no longer capable of being determined - at least in a court of law in a process such as this - if they ever were. I can say, however, that John Dougal, like the other deceased in this inquest, should not have been shot dead by the army in the circumstances. He was shot in the back as he retreated from whatever was or had been occurring at the scene of the initial incident.

Prelude to verdicts

12.146 I believe I have addressed, as far as necessary or appropriate, the range of issues set out in the scope document for the inquest which is discussed in Chapter 2 (see para 2.06). I turn now to the formal verdicts in the inquest, which are limited for the reasons also discussed in that Chapter (see paras 2.50 to 2.51).

13. VERDICTS

13.01 Verdict in the inquest touching the death of John Joseph Dougal:

1. The deceased was John Joseph Dougal, factory worker, born on 22 December 1955, of 91 Springhill Avenue, Belfast.
2. The deceased came by his death at or about the garden of 58 or 60 Westrock Drive, Belfast, at around 9.50 pm on 9 July 1972.
3. The cause of the deceased's death was (a) laceration of his right lung, due to (b) gunshot wound of the chest.
4. The following additional particulars were proven to my satisfaction in respect of the means by which the deceased came by his death:
 - a. The deceased was shot by a soldier from C Company, 1 Kings Regiment, deployed in JP Corry's Timber Yard, Springfield Road, Belfast, known only as Soldier A.
 - b. The shot which caused the death of the deceased was a direct, aimed shot from a high velocity weapon and was not a ricochet.
 - c. The deceased was shot in the back whilst running away from Corry's Yard.

13.02 Verdict in the inquest touching the death of John Noel Fitzpatrick

1. The deceased was John Noel Fitzpatrick, Catholic priest, born on 24 December 1929, of St John's Presbytery, Falls Road, Belfast.
2. The deceased came by his death at or about the southeast corner of 84 Westrock Drive, Belfast, at around 10.00 pm on 9 July 1972.
3. The cause of the deceased's death was a gunshot wound of the neck.
4. The following additional particulars were proven to my satisfaction in respect of the means by which the deceased came by his death:
 - a. The deceased was shot by a soldier from C Company, 1 Kings Regiment, deployed in JP Corry's Timber Yard, Springfield Road, Belfast, known only as Soldier A.
 - b. The shot which caused the death of the deceased was a direct, aimed shot from a high velocity weapon and was not a ricochet.

- c. At the time of his death, the deceased was unarmed and was posing no risk. He was going to the assistance of others.
- d. The deceased was struck by the same bullet as caused the death of Patrick Joseph Butler at or about the same time and place.

13.03 Verdict in the inquest touching the death of Patrick Joseph Butler

1. The deceased was Patrick Joseph Butler, council worker, born on 31 July 1934, of 71 Westrock Drive, Belfast.
2. The deceased came by his death at or about the southeast corner of 84 Westrock Drive, Belfast, at around 10.00 pm on 9 July 1972.
3. The cause of the deceased's death was a gunshot wound of the head.
4. The following additional particulars were proven to my satisfaction in respect of the means by which the deceased came by his death:
 - a. The deceased was shot by a soldier from C Company, 1 Kings Regiment, deployed in JP Corry's Timber Yard, Springfield Road, Belfast, known only as Soldier A.
 - b. The deceased was struck by a destabilized high velocity bullet which had passed through, and caused the death of, Fr John Noel Fitzpatrick, at or about the same time and place.
 - c. At the time of his death, the deceased was unarmed and was posing no risk. He was assisting Fr Fitzpatrick in going to the assistance of others.

13.04 Verdict in the inquest touching the death of David McCafferty

1. The deceased was David McCafferty, schoolboy, born on 18 April 1957, of 23 Ballymurphy Drive, Belfast.
2. The deceased came by his death at or about the southeast corner of 84 Westrock Drive, Belfast, at around 10.00 pm on 9 July 1972.
3. The cause of the deceased's death was (a) laceration of right lung and liver, due to (b) gunshot wound of the trunk.
4. The following additional particulars were proven to my satisfaction in respect of the means by which the deceased came by his death:

- a. The deceased was shot by a soldier from C Company, 1 Kings Regiment, deployed in JP Corry's Timber Yard, Springfield Road, Belfast, known only as Soldier A.
- b. The shot which caused the death of the deceased was a direct, aimed shot from a high velocity weapon and was not a ricochet.
- c. At the time of his death, the deceased was unarmed and was posing no risk. He was seeking to recover the body of Fr John Noel Fitzpatrick.

13.05 Verdict in the inquest touching the death of Margaret Gargan

1. The deceased was Margaret Gargan, schoolgirl, born on 13 September 1958, of 44 Westrock Drive, Belfast.
2. The deceased came by her death on the pavement outside the side gate of 8 Westrock Gardens, Belfast on the evening of 9 July 1972.
3. The cause of the deceased's death was a single bullet wound of the head.
4. The following additional particulars were proven to my satisfaction in respect of the means by which the deceased came by her death:
 - a. The deceased was shot by a soldier from C Company, 1 Kings Regiment, deployed in JP Corry's Timber Yard, Springfield Road, Belfast, known only as Soldier E.
 - b. The shot which caused the death of the deceased was a direct, aimed shot from a high velocity weapon and was not a ricochet.
 - c. At the time of her death, the deceased was unarmed and was posing no risk. She was talking to friends.

14. CONCLUDING REMARKS

14.01 I repeat the thanks set out in the opening chapter of this ruling to all of the legal professionals who assisted in the preparation and conduct of these inquest proceedings.

14.02 There are a number of matters which now require to be attended to. In the first instance, a Form 21 will be completed in respect of each death in accordance with the verdicts just delivered for provision to the Registrar of Births, Deaths and Marriages. The additional formal details required will be completed but confirmed with the legal representatives for the next of kin before submission.

14.03 In accordance with the guidance provided by the Court of Appeal in *Re Thompson's Application* [2025] NICA 25, at para [50], I will not formally close the inquest for a period in order to address any ancillary issues which arise.

14.04 Section 35(3) of the Justice (Northern Ireland) Act 2002 provides that: "Where the circumstances of any death which has been, or is being, investigated by a coroner appear to the coroner to disclose that an offence may have been committed against the law of Northern Ireland... the coroner must as soon as practicable send to the Director [of Public Prosecutions] a written report of the circumstances."

14.05 I will take submissions on this issue; but it is well established that the obligation to refer, arising where a coroner considers that a criminal offence *may* have been committed, is a low threshold (see, for example, *Re SGM15's Application* [2024] NIKB 56, at para [137]). It therefore seems that a report is likely to be necessary in this case. I should add, however, in order to manage expectations, that my anticipation is that – in light of the passage of time, the difficulties in establishing to the criminal standard who fired any lethal shots, and the associated difficulties in this case of even establishing the identity of the ciphered soldiers – there is little prospect of any prosecution in these cases if that is what anyone is seeking.

14.06 At the St Aidan's Inquiry event in 1999, Fr Des Wilson said that, "... even if it takes fifty years the truth must be found and will be found". It is unfortunate that it has taken so long for there to be a full and rigorous inquiry into the deaths in this case. I doubt whether it is possible to say at this remove that the truth has truly been found. However, I trust that the conduct and outcome of these proceedings has provided some answers to those who have been seeking them.

14.07 I conclude today's hearing as I opened the evidential hearings, by expressing my condolences to the families of each of the deceased.